

## ALASKA NATIVE CLAIMS SETTLEMENT ACT, as codified

43 USC CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

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#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1641, 1642 of this title; title 2 section 658; title 5 section 3371; title 12 sections 1715z-13, 1715z-13a, 4702; title 15 section 637; title 16 sections 410hh, 410hh-3, 470bb, 1279, 1722, 1855, 3102, 3111, 3120, 3141, 3164, 3215, 4302, 4702; title 18 section 208; title 20 sections 1087uu-1, 1401, 4402, 6103, 7404, 7713, 9122; title 25 sections 450b, 1452, 1603, 1801, 2026, 2403, 2511, 3001, 3002, 3112, 3202, 3501, 3703, 3802, 3902, 4001, 4103; title 26 section 45A; title 29 sections 706, 750, 1671; title 30 section 1306; title 31 section 7501; title 33 sections 1263, 1377; title 38 section 3115; title 42 sections 280d, 1996a, 2991b, 2992c, 3002, 3796dd-8, 3796gg-2, 4368b, 4762, 5061, 6502, 8011, 8802, 9832, 10101, 11472, 12584, 13743, 13791, 13801, 13868, 13911, 13971, 14151; title 45 section 1212.

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#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1601.** Congressional findings and declaration of policy

Congress finds and declares that -

- (a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;

(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska;

(c) no provision of this chapter shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State or Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska; the Secretary is authorized and directed, together with other appropriate agencies of the United States Government, to make a study of all Federal programs primarily designed to benefit Native people and to report back to the Congress with his recommendations for the future management and operation of these programs within three years of December 18, 1971;

(d) no provision of this chapter shall constitute a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organizations, or any tribe, band, or identifiable group of American Indians;

(e) no provision of this chapter shall effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438 (FOOTNOTE 1) of title 10 except as specifically provided in this chapter;

(FOOTNOTE 1) See References in Text note below.

(f) no provision of this chapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this chapter; and

(g) no provision of this chapter shall be construed to terminate or otherwise curtail the activities of the Economic Development Administration or other Federal agencies conducting loan or loan and grant programs in Alaska. For this purpose only, the terms "Indian reservation" and "trust or restricted Indian-owned land areas" in Public Law 89-136, the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121

et seq.), shall be interpreted to include lands granted to Natives under this chapter as long as such lands remain in the ownership of the Native villages or the Regional Corporations.

(Pub. L. 92-203, Sec. 2, Dec. 18, 1971, 85 Stat. 688.)

#### REFERENCES IN TEXT

Section 7434 of title 10, referred to in subsec. (e), was repealed by Pub. L. 104-66, title I, Sec. 1051(g), Dec. 21, 1995, 109 Stat. 716.

The Public Works and Economic Development Act of 1965, referred to in subsec. (g), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (Sec. 3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

#### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-415, Sec. 1, Oct. 14, 1992, 106 Stat. 2112, provided that: "This Act (amending sections 1606, 1617, 1620, 1621, 1626, and 1634 of this title and section 3198 of Title 16, Conservation, and enacting provisions set out as notes under section 852 of this title and section 539 of Title 16) may be cited as the 'Alaska Land Status Technical Corrections Act of 1992'."

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-241, Sec. 1(a), Feb. 3, 1988, 101 Stat. 1788, provided that: "This Act (enacting sections 1629b to 1629e of this title, amending sections 1602, 1606, 1607, 1620, 1625 to 1627, and 1636 of this title, section 78m of Title 15, Commerce and Trade, and section 1702 of Title 30, Mineral Lands and Mining, and enacting provisions set out as notes under this section and under section 1702 of Title 30) may be cited as the 'Alaska Native Claims Settlement Act Amendments of 1987'."

#### SHORT TITLE

Section 1 of Pub. L. 92-203 provided: "That this Act (enacting this chapter) may be cited as the 'Alaska Native Claims Settlement Act'."

#### SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as modifying, etc., any provision of this chapter, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

Section 26 of Pub. L. 92-203 provided that: "To the extent that there is a conflict between any provision of this Act (enacting this chapter) and any other Federal laws applicable to Alaska, the provisions of this Act shall govern."

#### SEVERABILITY

Section 27 of Pub. L. 92-203, as amended by Pub. L. 100-241, Sec. 13, Feb. 3, 1988, 101 Stat. 1810, provided that: "The provisions of this Act, as amended (enacting this chapter), and the Alaska Native Claims Settlement Act Amendments of 1987 (Pub. L. 100-241, see Short Title of 1988 Amendment note above) are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act."

#### CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Pub. L. 100-241, Sec. 2, Feb. 3, 1988, 101 Stat. 1788, provided that: "The Congress finds and declares that -

"(1) the Alaska Native Claims Settlement Act (this chapter) was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

"(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native peoples of Alaska;

"(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

"(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

"(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

"(6) among other things, the shareholders of each Native

Corporation must be permitted to decide -

"(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

"(B) whether Natives born after December 18, 1971, should participate in the settlement;

"(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

"(8) no provision of this Act (see Short Title of 1988 Amendment note above) shall -

"(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

"(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulation of the taking, of fish and wildlife) or persons in Alaska; and

"(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs."

#### JUDICIAL REVIEW

Pub. L. 100-241, Sec. 16, Feb. 3, 1988, 101 Stat. 1813, provided that:

"(a) Statute of Limitations. - (1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment made by, or other provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) (see Short Title of 1988 Amendment note above) shall be barred unless filed within the periods specified in this subsection.

"(2) If a civil action described in paragraph (1) challenges -

"(A) the issuance or distribution of Settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B), (2)(C)(ii)); or

"(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections (sic) (c) or (d) of section 37 of such Act (43 U.S.C. 1629c(c), (d)); or

"(C) the denial of dissenters rights after the rejection of an amendment to terminate alienability restrictions pursuant to section 37(b) of such Act;

such civil action shall be barred unless it is filed within one

year after the date of the shareholder vote authorizing such issuance or distribution, extension of restrictions, or denial of right, and unless a request for a declaratory judgment or injunctive relief is made before stock is issued or distributed.

"(3) Any other civil action described in paragraph (1) shall be barred unless it is filed within two years of the date of the enactment of this Act (Feb. 3, 1988).

"(4) No Native Corporation taking an action described in paragraph (2)(A), (2)(B), or (2)(C) shall issue or distribute stock sooner than fourteen days after the date of the shareholder vote authorizing such action.

"(b) Jurisdiction and Procedure. - (1) The United States District Court for the District of Alaska shall have exclusive original jurisdiction over a civil action described in subsection (a)(1). The action shall be heard and determined by a court of three judges as provided in section 2284 of title 28 of the United States Code. An appeal of the final judgment of such court shall be made directly to the United States Supreme Court.

"(2) No money judgment shall be entered against the United States in a civil action subject to this section.

"(c) Statement of Purpose. - The purpose of the limitation on civil actions established by this section is -

"(1) to ensure that after the expiration of a reasonable period of time, Native Shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

"(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act."

#### DISCLAIMER

Pub. L. 100-241, Sec. 17, Feb. 3, 1988, 101 Stat. 1814, provided that:

"(a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) (see Short Title of 1988 Amendment note above), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect -

"(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended (25 U.S.C. 461 et seq.)) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

"(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

"(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed -

"(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

"(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation."

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## TITLE 43 - PUBLIC LANDS

### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1602.** Definitions

For the purposes of this chapter, the term -

(a) "Secretary" means the Secretary of the Interior;

(b) "Native" means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlaktla (FOOTNOTE 1) Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final;

(FOOTNOTE 1) So in original. Probably should be "Metlakatla".

(c) "Native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of this title, or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives;

(d) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality;

(e) "Public lands" means all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act, as amended (72 Stat. 341, 77 Stat. 223), or identified for selection by the State prior to January 17, 1969;

(f) "State" means the State of Alaska;

(g) "Regional Corporation" means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of this chapter;

(h) "Person" means any individual, group, firm, corporation, association, or partnership;

(i) "Municipal Corporation" means any general unit of municipal government under the laws of the State of Alaska;

(j) "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village in accordance with the terms of this chapter. (FOOTNOTE 2)

(FOOTNOTE 2) So in original. The period probably should be a semicolon.

(k) "Fund" means the Alaska Native Fund in the Treasury of the United States established by section 1605 of this title;

(l) "Planning Commission" means the Joint Federal-State Land Use Planning Commission established by section 1616 of this title;

(m) "Native Corporation" means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Group Corporation;

(n) "Group Corporation" means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this chapter;

(o) "Urban Corporation" means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this chapter;

(p) "Settlement Common Stock" means stock of a Native Corporation issued pursuant to section 1606(g)(1) of this title that carries with it the rights and restrictions listed in section

1606(h)(1) of this title;

(q) "Replacement Common Stock" means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 1606(h)(3) of this title;

(r) "Descendant of a Native" means -

(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

(2) an adoptee of a Native or of a descendant of a Native, whose adoption -

(A) occurred prior to his or her majority, and

(B) is recognized at law or in equity;

(s) "Alienability restrictions" means the restrictions imposed on Settlement Common Stock by section 1606(h)(1)(B) of this title;

(t) "Settlement Trust" means a trust -

(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

(2) operated for the sole benefit of the holders of the corporation's Settlement Common Stock in accordance with section 1629e of this title and the laws of the State of Alaska.

(Pub. L. 92-203, Sec. 3, Dec. 18, 1971, 85 Stat. 689; Pub. L. 96-487, title XIV, Sec. 1401(d), Dec. 2, 1980, 94 Stat. 2492; Pub. L. 100-241, Sec. 3, Feb. 3, 1988, 101 Stat. 1789.)

#### REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, as amended, referred to in subsec. (e), is section 6(g) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

#### AMENDMENTS

1988 - Subsec. (h). Pub. L. 100-241, Sec. 3(1), inserted "group," after "individual,".

Subsec. (k). Pub. L. 100-241, Sec. 3(2), struck out "and" at end.

Subsec. (l). Pub. L. 100-241, Sec. 3(3), substituted semicolon for period.

Subsec. (m). Pub. L. 100-241, Sec. 3(4), substituted "Group Corporation;" for "Native Group."

Subsecs. (n) to (t). Pub. L. 100-241, Sec. 3(5), added subsecs. (n) to (t).

1980 - Subsec. (m). Pub. L. 96-487 added subsec. (m).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1615, 1626, 1641 of this title; title 16 sections 470w, 620e, 1722, 3102; title 20 sections 1106b, 7938; title 25 sections 472a, 1903, 2012, 3103; title 38 section 3764; title 42 sections 300f, 6949a, 9832, 10101, 12511, 12584; title 45 section 1202.

43 USC Sec. 1603

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1603.** Declaration of settlement

(a) Aboriginal title extinguishment through prior land and water area conveyances

All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6(g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) Aboriginal title and claim extinguishment where based on use and occupancy; submerged lands underneath inland and offshore water areas and hunting or fishing rights included

All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

(c) Aboriginal claim extinguishment where based on right, title, use, or occupancy of land or water areas; domestic statute or treaty relating to use and occupancy; or foreign laws; pending claims

All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Native use and occupancy, or that are based on the laws of any other nation, including any such claims that are pending before any Federal or state court or the Indian Claims Commission, are hereby extinguished.

(Pub. L. 92-203, Sec. 4, Dec. 18, 1971, 85 Stat. 689.)

REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, referred to in subsec.

(a), is section 6(g) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

43 USC Sec. 1604

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1604.** Enrollment

(a) Eligible Natives; finality of decision

The Secretary shall prepare within two years from December 18, 1971, a roll of all Natives who were born on or before, and who are living on, December 18, 1971. Any decision of the Secretary regarding eligibility for enrollment shall be final.

(b) Residence; order of priority in enrollment of Natives not permanent residents; regional family or hardship enrollment

The roll prepared by the Secretary shall show for each Native, among other things, the region and the village or other place in which he resided on the date of the 1970 census enumeration, and he shall be enrolled according to such residence. Except as provided in subsection (c) of this section, a Native eligible for enrollment who is not, when the roll is prepared, a permanent resident of one of the twelve regions established pursuant to section 1606(a) of this title shall be enrolled by the Secretary in one of the twelve regions, giving priority in the following order to -

(1) the region where the Native resided on the 1970 census date if he had resided there without substantial interruption for two or more years;

(2) the region where the Native previously resided for an aggregate of ten years or more;

(3) the region where the Native was born; and

(4) the region from which an ancestor of the Native came:

(FOOTNOTE 1)

(FOOTNOTE 1) So in original. The colon probably should be a period.

The Secretary may enroll a Native in a different region when necessary to avoid enrolling members of the same family in different regions or otherwise avoid hardship.

(c) Election of enrollment in thirteenth region, if established, of

Native nonresidents; dependent household members as bound

A Native eligible for enrollment who is eighteen years of age or older and is not a permanent resident of one of the twelve regions may, on the date he files an application for enrollment, elect to

be enrolled in a thirteenth region for Natives who are non-residents of Alaska, if such region is established pursuant to section 1606(c) of this title. If such region is not established, he shall be enrolled as provided in subsection (b) of this section. His election shall apply to all dependent members of his household who are less than eighteen years of age, but shall not affect the enrollment of anyone else.

(Pub. L. 92-203, Sec. 5, Dec. 18, 1971, 85 Stat. 690.)

#### LATE ENROLLMENT OF OTHERWISE QUALIFIED NATIVES

Pub. L. 94-204, Sec. 1, Jan. 2, 1976, 89 Stat. 1145, provided: "That (a) the Secretary of the Interior (hereinafter in this Act (enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title) referred to as the 'Secretary') is directed to review those applications submitted within one year from the date of enactment of this Act (Jan. 2, 1976) by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the 'Settlement Act') (this chapter), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: Provided, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: Provided further, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a 'Native village', as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: Provided further, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a 'Native group', as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: And provided further, That any 'Native group', as defined in such Act, shall not lose its status as a Native group because of any enrollment pursuant to this Act.

"(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not

recognized as Village Corporations under section 11 of the Settlement Act (section 1610 of this title) and which are included within the boundaries of former reserves the Village Corporation or Corporations of which elected to acquire title to the surface and subsurface estate of said reserves pursuant to subsection 19(b) of the Settlement Act (section 1618(b) of this title). The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b) or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: Provided, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or 14(h)(8) of the Settlement Act (section 1611(b) or 1613(h)(8) of this title).

"(c) In those instances where, on the roll prepared under section 5 of the Settlement Act (this section), there were enrolled as residents of a place on April 1, 1970, a sufficient number of Natives required for a Native village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall; in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: Provided, That each Native whose place of residence on April 1, 1970, is changed by reason of this subsection shall be issued stock in the Native corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: Provided further, That no redistribution of funds made by any Native Corporation on the basis of prior places of residence shall be affected: Provided further, That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village community, or association not otherwise eligible for land or other benefits as a 'Native group' as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: Provided further, That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act

(section 1605(c) of this title) made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such redetermination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence."

ESTABLISHMENT BY COURT ORDER OF 13TH REGIONAL CORPORATION FOR BENEFIT OF NONPERMANENT RESIDENTS; LAND SELECTION ENTITLEMENTS; PREVIOUSLY ISSUED STOCK; ELECTION FOR ENROLLMENT; LAND ENTITLEMENTS OF CORPORATIONS OR NATIVE VILLAGE OR GROUP ELIGIBILITY

Pub. L. 94-204, Sec. 8, Jan. 2, 1976, 89 Stat. 1149, provided that:

"(a) Notwithstanding the October 6, 1975, order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. against Rogers C. B. Morton et al., Civil Action Numbered 2133-73, and Alaska Federation of Natives International, Inc., et al. against Rogers C. B. Morton, et al., Civil Action Numbered 2141-73 ( - F. Supp. - ) (417 F. Supp. 459), changes in enrollments of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

"(b) Stock previously issued by any of the twelve Regional Corporations in Alaska or by Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said order shall, upon said enrollment, be canceled by the issuing corporation without liability to it or the Native whose stock is so canceled:

Provided, That, in the event that a Native enrolled in the thirteenth region pursuant to said order shall elect to re-enroll in the appropriate Regional Corporation in Alaska pursuant to the sixth ordering paragraph of that order, stock of such Native may be canceled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Regional Corporation in Alaska without liability to either corporation or to the Native.

"(c) Whenever additional enrollment under the Settlement Act (this chapter) is permitted pursuant to this Act (enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title) or any other provision of law, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to the Settlement Act shall, at the time of enrollment, elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of such act (section

1604(b) of this title) and such election shall apply to all dependent members of such Native's household who are less than eighteen years of age on the date of such election.

"(d) No change in the final roll of Natives established by the Secretary pursuant to section 5 of the Settlement Act (section 1604 of this title) resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Natives shall affect land entitlements of any Regional or Village Corporation or any Native village or group eligibility."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1605, 1606 of this title.

43 USC Sec. 1605

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1605.** Alaska Native Fund

(a) Establishment in Treasury; deposits into Fund of general fund, interest, and revenue sharing moneys

There is hereby established in the United States Treasury an Alaska Native Fund into which the following moneys shall be deposited:

(1) \$462,500,000 from the general fund of the Treasury, which are authorized to be appropriated according to the following schedule:

(A) \$12,500,000 during the fiscal year in which this chapter becomes effective;

(B) \$50,000,000 during the second fiscal year;

(C) \$70,000,000 during each of the third, fourth, and fifth fiscal years;

(D) \$40,000,000 during the period beginning July 1, 1976, and ending September 30, 1976; and

(E) \$30,000,000 during each of the next five fiscal years, for transfer to the Alaska Native Fund in the fourth quarter of each fiscal year.

(2) Four percent interest per annum, which is authorized to be appropriated, on any amount authorized to be appropriated by this paragraph that is not appropriated within six months after the fiscal year in which payable.

(3) \$500,000,000 pursuant to the revenue sharing provisions of section 1608 of this title.

(b) Prohibition of expenditures for propaganda or political

campaigns; misdemeanor; penalty

None of the funds paid or distributed pursuant to this section to any of the Regional and Village Corporations established pursuant to this chapter shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing and distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than twelve months, or both.

(c) Distribution of Fund moneys among organized Regional Corporations; basis as relative number of Native enrollees in each region; reserve for payment of attorney and other fees; retention of share in Fund until organization of corporation

After completion of the roll prepared pursuant to section 1604 of this title, all money in the Fund, except money reserved as provided in section 1619 of this title for the payment of attorney and other fees, shall be distributed at the end of each three months of the fiscal year among the Regional Corporations organized pursuant to section 1606 of this title on the basis of the relative numbers of Natives enrolled in each region. The share of a Regional Corporation that has not been organized shall be retained in the Fund until the Regional Corporation is organized.

(Pub. L. 92-203, Sec. 6, Dec. 18, 1971, 85 Stat. 690; Pub. L. 94-273, Sec. 38, Apr. 21, 1976, 90 Stat. 380.)

#### AMENDMENTS

1976 - Subsec. (a)(1)(D). Pub. L. 94-273 substituted "period beginning July 1, 1976, and ending September 30, 1976; and" for "the sixth fiscal year; and".

Subsec. (a)(1)(E). Pub. L. 94-273 inserted provision relating to transfer to the Alaska Native Fund.

#### DEPOSITS INTO AND DISTRIBUTIONS FROM ALASKA NATIVE FUND; TIME REQUIREMENTS; INCLUSION OF PREVIOUSLY EARNED INTEREST

Pub. L. 96-487, title XIV, Sec. 1414, Dec. 2, 1980, 94 Stat. 2498, provided that:

"(a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year following the enactment of this Act (Dec. 2, 1980), shall, for the purposes of section 5 of Public Law 94-204 (set out below) only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act (subsec. (c) of this section)

notwithstanding any other provision of law.

"(b) For the fiscal year in which this Act is enacted (fiscal year 1981), the money appropriated shall be deposited within 10 days of enactment (Dec. 2, 1980), unless it has already been deposited in accordance with existing law, and shall be distributed no later than the end of the quarter following the quarter in which the money is deposited: Provided, That if the money is already deposited at the time of enactment of this Act, it must be distributed at the end of the quarter in which this Act is enacted.

"(c) Notwithstanding section 38 of the Fiscal Year Adjustment Act (section 38 of Pub. L. 94-273, which amended this section) or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94-373; 90 Stat. 1051) (not classified to the Code), and deposited in the Alaska Native Fund on or after October 1, 1976, shall be deposited in the Alaska Native Fund within thirty days after enactment of this Act (Dec. 2, 1980) and shall be distributed as required by section 6(c) of the Alaska Native Claims Settlement Act (subsec. (c) of this section)."

#### ALASKA NATIVE FUND VIEWED AS TRUST FOR INDIAN TRIBES FOR PURPOSES OF INTEREST AND INVESTMENT

Pub. L. 94-204, Sec. 5, Jan. 2, 1976, 89 Stat. 1147, provided that: "For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended (section 161a of Title 25, Indians), and the first section of the Act of June 24, 1938 (52 Stat. 1037) (section 162a of Title 25), the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act (subsec. (c) of this section) be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: Provided, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act (this chapter)."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1606, 1619, 1621, 1627 of this title.

43 USC Sec. 1606

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

## **Sec. 1606. Regional Corporations**

(a) Division of Alaska into twelve geographic regions; common heritage and common interest of region; area of region commensurate with operations of Native association; boundary disputes, arbitration

For purposes of this chapter, the State of Alaska shall be divided by the Secretary within one year after December 18, 1971, into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:

- (1) Arctic Slope Native Association (Barrow, Point Hope);
- (2) Bering Straits Association (Seward Peninsula, Unalakleet, Saint Lawrence Island);
- (3) Northwest Alaska Native Association (Kotzebue);
- (4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);
- (5) Tanana Chiefs' Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);
- (6) Cook Inlet Association (Kenai, Tyonek, Eklutna, Iliamna);
- (7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);
- (8) Aleut League (Aleutian Islands, Pribilof Islands and that part of the Alaska Peninsula which is in the Aleut League);
- (9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward);
- (10) Tlingit-Haida Central Council (southeastern Alaska, including Metlakatla);
- (11) Kodiak Area Native Association (all villages on and around Kodiak Island); and
- (12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of a region or regions shall be resolved by a board of arbitrators consisting of one person selected by each of the Native associations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Native associations involved.

(b) Region mergers; limitation

The Secretary may, on request made within one year of December 18, 1971, by representative and responsible leaders of the Native associations listed in subsection (a) of this section, merge two or

more of the twelve regions: Provided, That the twelve regions may not be reduced to less than seven, and there may be no fewer than seven Regional Corporations.

(c) Establishment of thirteenth region for nonresident Natives; majority vote; Regional Corporation for thirteenth region

If a majority of all eligible Natives eighteen years of age or older who are not permanent residents of Alaska elect, pursuant to section 1604(c) of this title, to be enrolled in a thirteenth region for Natives who are non-residents of Alaska, the Secretary shall establish such a region for the benefit of the Natives who elected to be enrolled therein, and they may establish a Regional Corporation pursuant to this chapter.

(d) Incorporation; business for profit; eligibility for benefits; provisions in articles for carrying out chapter

Five incorporators within each region, named by the Native association in the region, shall incorporate under the laws of Alaska a Regional Corporation to conduct business for profit, which shall be eligible for the benefits of this chapter so long as it is organized and functions in accordance with this chapter. The articles of incorporation shall include provisions necessary to carry out the terms of this chapter.

(e) Original articles and bylaws: approval by Secretary prior to filing, submission for approval; amendments to articles: approval by Secretary; withholding approval in event of creation of inequities among Native individuals or groups

The original articles of incorporation and bylaws shall be approved by the Secretary before they are filed, and they shall be submitted for approval within eighteen months after December 18, 1971. The articles of incorporation may not be amended during the Regional Corporation's first five years without the approval of the Secretary. The Secretary may withhold approval under this section if in his judgment inequities among Native individuals or groups of Native individuals would be created.

(f) Board of directors; management; stockholders; provisions in articles or bylaws for number, term, and method of election

The management of the Regional Corporation shall be vested in a board of directors, all of whom, with the exception of the initial board, shall be stockholders over the age of eighteen. The number, terms, and method of election of members of the board of directors shall be fixed in the articles of incorporation or bylaws of the Regional Corporation.

(g) Issuance of stock

(1) Settlement Common Stock

(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to

reflect the provisions of this chapter) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 1604 of this title.

(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to -

(I) Natives born after December 18, 1971, and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,

(II) Natives who were eligible for enrollment pursuant to section 1604 of this title but were not so enrolled, or

(III) Natives who have attained the age of 65,

for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) of this section or section 1629c(d) of this title) shall be deemed canceled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

(C)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other

distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

(2) Other forms of stock

(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that -

- (i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or
- (ii) issuance of such shares shall permanently preclude the corporation from -
  - (I) conveying assets to a Settlement Trust, or
  - (II) issuing shares of stock without adequate consideration as required under the laws of the State.

(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following

-

- (i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation -
  - (I) dividend rights,
  - (II) voting rights, and
  - (III) liquidation preferences;
- (ii) made subject to one or more of -
  - (I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B) of this section, and
  - (II) the restriction described in paragraph (1)(B)(iii); and
- (iii) restricted in issuance to -
  - (I) Natives who have attained the age of sixty-five;
  - (II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;
  - (III) Settlement Trusts; or
  - (IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued -

- (i) as a dividend or other distribution (without regard to

surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

(D) During any period in which alienability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be -

(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

(3) Disclosure requirements

(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify -

(i) the maximum number of shares of any class or series of stock that may be issued, and

(ii) the maximum number of votes that may be held by such shares.

(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least sixty days prior to the date on which such proposal is to be submitted for a vote.

(iii) If not later than thirty days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 per centum of the outstanding shares of Settlement

Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

(4) Savings

(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section. No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (FOOTNOTE 1) (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) of this section prior to February 3, 1988, for purposes of distributing funds pursuant to subsections (j) and (m) of this section.

(FOOTNOTE 1) So in original. Probably should be "paragraph".

(B) The issuance of additional shares of stock pursuant to paragraphs (FOOTNOTE 1) (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i) of this section.

(C) No provision of this chapter shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this chapter.

(h) Settlement Common Stock

(1) Rights and restrictions

(A) Except as otherwise expressly provided in this chapter, Settlement Common Stock of a Regional Corporation shall -

(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

(ii) permit the holder to receive dividends or other distributions from the corporation; and

(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be -

(i) sold;

(ii) pledged;

(iii) subjected to a lien or judgment execution;

(iv) assigned in present or future;

(v) treated as an asset under -

(l) title 11 or any successor statute,

- (II) any other insolvency or moratorium law, or
- (III) other laws generally affecting creditors' rights; or
- (vi) otherwise alienated.

(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendant of a Native -

- (i) pursuant to a court decree of separation, divorce, or child support;
- (ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or
- (iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, nephew, or (if the holder has reached the age of majority as defined by the laws of the State of Alaska) brother or sister.

(2) Inheritance of Settlement Common Stock

(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless canceled in accordance with subsection (g)(1)(B)(iii) of this section) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be canceled.

(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after February 3, 1988, if -

- (i) the corporation -
  - (I) amends its articles of incorporation to authorize such purchases, and
  - (II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and
- (ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

(C) Settlement Common Stock of a Regional Corporation -

- (i) transferred by will or pursuant to applicable laws of intestate succession after February 3, 1988, or
- (ii) transferred by any means prior to February 3, 1988,

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

(3) Replacement Common Stock

(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 1629c of this title, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed canceled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this chapter as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) of this section shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that subsection.

(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section shall be exchanged either for -

(I) a share of Replacement Common Stock that carries such right, or

(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) of this section shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following -

(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

(4) Purchase of settlement common stock of Cook Inlet Region

(A) As used in this paragraph, the term "Cook Inlet Regional Corporation" means Cook Inlet Region, Incorporated.

(B) The Cook Inlet Regional Corporation may, by an amendment to its articles of incorporation made in accordance with the voting standards under section 1629b(d)(1) of this title, purchase Settlement Common Stock of the Cook Inlet Regional Corporation and all rights associated with the stock from the shareholders of Cook Inlet Regional Corporation in accordance with any provisions included in the amendment that relate to the terms, procedures, number of offers to purchase, and timing of offers to purchase.

(C) Subject to subparagraph (D), and notwithstanding paragraph (1)(B), the shareholders of Cook Inlet Regional Corporation may, in accordance with an amendment made pursuant to subparagraph (B), sell the Settlement Common Stock of the Cook Inlet Regional Corporation to itself.

(D) No sale or purchase may be made pursuant to this paragraph without the prior approval of the board of directors of Cook Inlet Regional Corporation. Except as provided in subparagraph (E), each sale and purchase made under this paragraph shall be made pursuant to an offer made on the same terms to all holders of Settlement Common Stock of the Cook Inlet Regional Corporation.

(E) To recognize the different rights that accrue to any class or series of shares of Settlement Common Stock owned by stockholders who are not residents of a Native village (referred to in this paragraph as "non-village shares"), an amendment made pursuant to subparagraph (B) shall authorize the board of

directors (at the option of the board) to offer to purchase -

(i) the non-village shares, including the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section (referred to in this paragraph as "nonresident distribution rights"), at a price that includes a premium, in addition to the amount that is offered for the purchase of other village shares of Settlement Common Stock of the Cook Inlet Regional Corporation, that reflects the value of the nonresident distribution rights; or

(ii) non-village shares without the nonresident distribution rights associated with the shares.

(F) Any shareholder who accepts an offer made by the board of directors pursuant to subparagraph (E)(ii) shall receive, with respect to each non-village share sold by the shareholder to the Cook Inlet Regional Corporation -

(i) the consideration for a share of Settlement Common Stock offered to shareholders of village shares; and

(ii) a security for only the nonresident rights that attach to such share that does not have attached voting rights (referred to in this paragraph as a "non-voting security").

(G) An amendment made pursuant to subparagraph (B) shall authorize the issuance of a non-voting security that -

(i) shall, for purposes of subsections (j) and (m) of this section, be treated as a non-village share with respect to -

(I) computing distributions under such subsections; and

(II) entitling the holder of the share to the proportional share of the distributions made under such subsections;

(ii) may be sold to Cook Inlet Region, Inc.; and

(iii) shall otherwise be subject to the restrictions under paragraph (1)(B).

(H) Any shares of Settlement Common Stock purchased pursuant to this paragraph shall be canceled on the conditions that -

(i) non-village shares with the nonresident rights that attach to such shares that are purchased pursuant to this paragraph shall be considered to be -

(I) outstanding shares; and

(II) for the purposes of subsection (m) of this section, shares of stock registered on the books of the Cook Inlet Regional Corporation in the names of nonresidents of villages;

(ii) any amount of funds that would be distributable with respect to non-village shares or non-voting securities pursuant to subsection (j) or (m) of this section shall be distributed by Cook Inlet Regional Corporation to itself; and

(iii) village shares that are purchased pursuant to this paragraph shall be considered to be -

(I) outstanding shares, and

(II) for the purposes of subsection (k) of this section shares of stock registered on the books of the Cook Inlet Regional Corporation in the names of the residents of villages.

(I) Any offer to purchase Settlement Common Stock made pursuant to this paragraph shall exclude from the offer -

(i) any share of Settlement Common Stock held, at the time the offer is made, by an officer (including a member of the board of directors) of Cook Inlet Regional Corporation or a member of the immediate family of the officer; and

(ii) any share of Settlement Common Stock held by any custodian, guardian, trustee, or attorney representing a shareholder of Cook Inlet Regional Corporation in fact or law, or any other similar person, entity, or representative.

(J)(i) The board of directors of Cook Inlet Regional Corporation, in determining the terms of an offer to purchase made under this paragraph, including the amount of any premium paid with respect to a non-village share, may rely upon the good faith opinion of a recognized firm of investment bankers or valuation experts.

(ii) Neither Cook Inlet Regional Corporation nor a member of the board of directors or officers of Cook Inlet Regional Corporation shall be liable for damages resulting from terms made in an offer made in connection with any purchase of Settlement Common Stock if the offer was made -

(I) in good faith;

(II) in reliance on a determination made pursuant to clause

(i); and

(III) otherwise in accordance with this paragraph.

(K) The consideration given for the purchase of Settlement Common Stock made pursuant to an offer to purchase that provides for such consideration may be in the form of cash, securities, or a combination of cash and securities, as determined by the board of directors of Cook Inlet Regional Corporation, in a manner consistent with an amendment made pursuant to subparagraph (B).

(L) Sale of Settlement Common Stock in accordance with this paragraph shall not diminish a shareholder's status as an Alaska Native or descendant of a Native for the purpose of qualifying for those programs, benefits and services or other rights or privileges set out for the benefit of Alaska Natives and Native Americans. Proceeds from the sale of Settlement Common Stock shall not be excluded in determining eligibility for any needs-based programs that may be provided by Federal, State or local agencies.

(i) Certain natural resource revenues; distribution among twelve

Regional Corporations; computation of amount; subsection inapplicable to thirteenth Regional Corporation; exclusion from revenues

(1) Seventy per centum of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this chapter shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 1604 of this title. The provisions of this subsection shall not apply to the thirteenth Regional Corporation if organized pursuant to subsection (c) hereof.

(2) For purposes of this subsection, the term "revenues" does not include any benefit received or realized for the use of losses incurred or credits earned by a Regional Corporation.

(j) Corporate funds and other net income, distribution among:  
stockholders of Regional Corporations; Village Corporations and nonresident stockholders; and stockholders of thirteenth Regional Corporation

During the five years following December 18, 1971, not less than 10% of all corporate funds received by each of the twelve Regional Corporations under section 1605 of this title (Alaska Native Fund), and under subsection (i) of this section (revenues from the timber resources and subsurface estate patented to it pursuant to this chapter), and all other net income, shall be distributed among the stockholders of the twelve Regional Corporations. Not less than 45% of funds from such sources during the first five-year period, and 50% thereafter, shall be distributed among the Village Corporations in the region and the class of stockholders who are not residents of those villages, as provided in subsection (FOOTNOTE 2) to it. In the case of the thirteenth Regional Corporation, if organized, not less than 50% of all corporate funds received under section 1605 of this title shall be distributed to the stockholders.

(FOOTNOTE 2) So in original.

(k) Distributions among Village Corporations; computation of amount

Funds distributed among the Village Corporations shall be divided among them according to the ratio that the number of shares of stock registered on the books of the Regional Corporation in the names of residents of each village bears to the number of shares of stock registered in the names of residents in all villages.

(l) Distributions to Village Corporations; village plan:

withholding funds until submission of plan for use of money; joint ventures and joint financing of projects; disagreements, arbitration of issues as provided in articles of Regional Corporation

Funds distributed to a Village Corporation may be withheld until

the village has submitted a plan for the use of the money that is satisfactory to the Regional Corporation. The Regional Corporation may require a village plan to provide for joint ventures with other villages, and for joint financing of projects undertaken by the Regional Corporation that will benefit the region generally. In the event of disagreement over the provisions of the plan, the issues in disagreement shall be submitted to arbitration, as shall be provided for in the articles of incorporation of the Regional Corporation.

(m) Distributions among Village Corporations in a region; computation of dividends for nonresidents of village; financing regional projects with equitably withheld dividends and Village Corporation funds

When funds are distributed among Village Corporations in a region, an amount computed as follows shall be distributed as dividends to the class of stockholders who are not residents of those villages: The amount distributed as dividends shall bear the same ratio to the amount distributed among the Village Corporations that the number of shares of stock registered on the books of the Regional Corporation in the names of nonresidents of villages bears to the number of shares of stock registered in the names of village residents: Provided, That an equitable portion of the amount distributed as dividends may be withheld and combined with Village Corporation funds to finance projects that will benefit the region generally.

(n) Projects for Village Corporations

The Regional Corporation may undertake on behalf of one or more of the Village Corporations in the region any project authorized and financed by them.

(o) Annual audit; place; availability of papers, things, or property to auditors to facilitate audits; verification of transactions; report to stockholders

The accounts of the Regional Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of the State or the United States. The audits shall be conducted at the place or places where the accounts of the Regional Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Regional Corporation and necessary to facilitate the audits shall be available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agent, and custodians shall be afforded to such person or persons. Each audit report or a fair and reasonably detailed summary thereof shall be

transmitted to each stockholder.

(p) Federal-State conflict of laws

In the event of any conflict between the provisions of this section and the laws of the State of Alaska, the provisions of this section shall prevail.

(q) Business management group; investment services contracts

Two or more Regional Corporations may contract with the same business management group for investment services and advice regarding the investment of corporate funds.

(Pub. L. 92-203, Sec. 7, Dec. 18, 1971, 85 Stat. 691; Pub. L. 96-487, title XIV, Sec. 1401(a), (c), Dec. 2, 1980, 94 Stat. 2491, 2492; Pub. L. 100-241, Sec. 4, 5, 12(a), Feb. 3, 1988, 101 Stat. 1790, 1792, 1810; Pub. L. 102-415, Sec. 4, 8, Oct. 14, 1992, 106 Stat. 2113, 2114; Pub. L. 104-10, Sec. 1(a), May 18, 1995, 109 Stat. 155; Pub. L. 104-42, title I, Sec. 109(a), Nov. 2, 1995, 109 Stat. 357.)

#### AMENDMENTS

1995 - Subsec. (h)(4). Pub. L. 104-10 added par. (4).

Subsec. (i). Pub. L. 104-42 designated existing provisions as par. (1) and added par. (2).

1992 - Subsec. (g)(1)(B)(i)(I). Pub. L. 102-415, Sec. 8, inserted at end "and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,".

Subsec. (h)(1)(C)(iii). Pub. L. 102-415, Sec. 4, substituted "nephew, or (if the holder has reached the age of majority as defined by the laws of the State of Alaska) brother or sister" for "or nephew".

1988 - Subsec. (g). Pub. L. 100-241, Sec. 4, amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "The Regional Corporation shall be authorized to issue such number of shares of common stock, divided into such classes of shares as may be specified in the articles of incorporation to reflect the provisions of this chapter, as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 1604 of this title."

Subsec. (h)(1), (2). Pub. L. 100-241, Sec. 5, amended pars. (1) and (2) generally, changing structure of each from a single unlettered paragraph to one consisting of subpars. (A) to (C).

Subsec. (h)(3). Pub. L. 100-241, Sec. 5, amended par. (3) generally, revising and restating as subpars. (A) to (E) provisions of former subpars. (A) to (C).

Subsec. (o). Pub. L. 100-241, Sec. 12(a), struck out ", to the Secretary of the Interior and to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives"

after "to each stockholder" in last sentence.

1980 - Subsec. (h)(1). Pub. L. 96-487, Sec. 1401(c), inserted "or by stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this chapter" after "divorce or child support". Section 1401(c) of Pub. L. 96-487 directed that section 1696(h)(1) of this title be amended, however, since no section 1696 of this title has been enacted, amendment was executed to subsec. (h)(1) of this section to reflect the probable intent of Congress.

Subsec. (h)(3). Pub. L. 96-487, Sec. 1401(a), substituted provisions that provided on Dec. 18, 1991, all stock previously issued be deemed canceled, and shares of stock of the appropriate class be issued to each shareholder share for share subject only to such restrictions as provided by the articles of incorporation, or agreement between the corporation and individual, specified restrictions which may be included by amendment in the articles of incorporation, and provided voting requirements for amendment of the articles of incorporation for approval of restrictions and the grant of voting rights to stockholders who were previously denied such rights for provision that provided on Jan. 1 of the twenty-first year after the year in which this chapter was enacted, all stock previously issued be deemed canceled and the shares of stock of the appropriate class issued without restrictions required by this chapter to each stockholder share for share.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Section 109(b) of Pub. L. 104-42 provided that: "This amendment (amending this section) shall be effective as of the date of enactment of the Alaska Native Claims Settlement Act, Public Law 92-203 (43 U.S.C. 1601, et seq.) (Dec. 18, 1971)."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1604, 1605, 1607, 1618, 1620, 1621, 1625, 1627, 1628, 1629b, 1629c, 1629d, 1629e, 1636 of this title; title 16 section 3181; title 25 section 1903; title 42 section 1382b; title 50 App. section 1989c-1.

43 USC Sec. 1607

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1607.** Village Corporations

(a) Organization of Corporation prerequisite to receipt of patent to lands or benefits under chapter

The Native residents of each Native village entitled to receive lands and benefits under this chapter shall organize as a business for profit or nonprofit corporation under the laws of the State before the Native village may receive patent to lands or benefits under this chapter, except as otherwise provided.

(b) Regional Corporation: approval of initial articles; review and approval of amendments to articles and annual budgets; assistance in preparation of articles and other documents

The initial articles of incorporation for each Village Corporation shall be subject to the approval of the Regional Corporation for the region in which the village is located. Amendments to the articles of incorporation and the annual budgets of the Village Corporations shall, for a period of five years, be subject to review and approval by the Regional Corporation. The Regional Corporation shall assist and advise Native villages in the preparation of articles of incorporation and other documents necessary to meet the requirements of this subsection.

(c) Applicability of section 1606

The provisions of subsections (g), (h) (other than paragraph (4)), and (o) of section 1606 of this title shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.

(Pub. L. 92-203, Sec. 8, Dec. 18, 1971, 85 Stat. 694; Pub. L. 96-487, title XIV, Sec. 1401(b), Dec. 2, 1980, 94 Stat. 2492; Pub. L. 100-241, Sec. 6, Feb. 3, 1988, 101 Stat. 1795; Pub. L. 104-10, Sec. 1(b), May 18, 1995, 109 Stat. 157.)

#### AMENDMENTS

1995 - Subsec. (c). Pub. L. 104-10 substituted "(h) (other than paragraph (4))" for "(h)".

1988 - Subsec. (c). Pub. L. 100-241 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 1606 of this title, including the provisions of section 1606(h)(3) of this title shall apply to Village Corporations Urban Corporations and Native Groups; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate."

1980 - Subsec. (c). Pub. L. 96-487 inserted provision making provisions of section 1606 of this title, including section 1606(h)(3) of this title, applicable to Village Corporations, Urban

Corporations, and Native Groups and substituted provision that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or the Committee on Energy and Natural Resources of the Senate for provision that audits need not be transmitted to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1620, 1627 of this title; title 16 section 1155; title 25 section 450j; title 42 section 1382b.

43 USC Sec. 1608

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1608.** Revenue sharing

##### (a) Minerals within section

The provisions of this section shall apply to all minerals that are subject to disposition under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

##### (b) Interim payments into Alaska Native Fund based on percentage of gross value of produced or removed minerals and of rentals and bonuses; time of payment

With respect to conditional leases and sales of minerals heretofore or hereafter made pursuant to section 6(g) of the Alaska Statehood Act, and with respect to mineral leases of the United States that are or may be subsumed by the State under section 6(h) of the Alaska Statehood Act, until such time as the provisions of subsection (c) of this section become operative the State shall pay into the Alaska Native Fund from the royalties, rentals, and bonuses hereafter received by the State (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under such leases or sales) of such minerals produced or removed from such lands, and (2) 2 per centum of all rentals and bonuses under such leases or sales, excluding bonuses received by the State at the September 1969 sale of minerals from tentatively approved lands and excluding rentals received pursuant to such sale before December 18, 1971. Such payment shall be made within sixty days from the date the revenues are received by the State.

##### (c) Patents; royalties: reservation of percentage of gross value of produced or removed minerals and of rentals and bonuses from

disposition of minerals

Each patent hereafter issued to the State under the Alaska Statehood Act, including a patent of lands heretofore selected and tentatively approved, shall reserve for the benefit of the Natives, and for payment into the Alaska Native Fund, (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any disposition by the State) of the minerals thereafter produced or removed from such lands, and (2) 2 per centum of all revenues thereafter derived by the State from rentals and bonuses from the disposition of such minerals.

(d) Distribution of bonuses, rentals, and royalties from Federal disposition of minerals in public lands; payments into Alaska Native Fund based on percentage of gross value of produced minerals and of rentals and bonuses; Federal and State share calculation on remaining balance

All bonuses, rentals, and royalties received by the United States after December 18, 1971, from the disposition by it of such minerals in public lands in Alaska shall be distributed as provided in the Alaska Statehood Act, except that prior to calculating the shares of the State and the United States as set forth in such Act, (1) a royalty of 2 per centum upon the gross value of such minerals produced (as such gross value is determined for royalty purposes under the sale or lease), and (2) 2 per centum of all rentals and bonuses shall be deducted and paid into the Alaska Native Fund. The respective shares of the State and the United States shall be calculated on the remaining balance.

(e) Federal enforcement; State underpayment: deductions from grants-in-aid or other Federal assistance equal to underpayment and deposit of such amount in Fund

The provisions of this section shall be enforceable by the United States for the benefit of the Natives, and in the event of default by the State in making the payments required, in addition to any other remedies provided by law, there shall be deducted annually by the Secretary of the Treasury from any grant-in-aid or from any other sums payable to the State under any provision of Federal law an amount equal to any such underpayment, which amount shall be deposited in the Fund.

(f) Oil and gas revenues; amount payable equal to Federal or State royalties in cash or kind

Revenues received by the United States or the State as compensation for estimated drainage of oil or gas shall, for the purposes of this section, be regarded as revenues from the disposition of oil and gas. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the royalties that would have been paid into the Fund under the provisions of this

section had the royalty been taken in cash.

(g) Alaska Native Fund payments; cessation; reimbursement for advance payments

The payments required by this section shall continue only until a sum of \$500,000,000 has been paid into the Alaska Native Fund less the total of advance payments paid into the Alaska Native Fund pursuant to section 407 of the Trans-Alaska Pipeline Authorization Act. Thereafter, payments which would otherwise go into the Alaska Native Fund will be made to the United States Treasury as reimbursement for the advance payments authorized by section 407 of the Trans-Alaskan Pipeline Authorization Act. The provisions of this section shall no longer apply, and the reservation required in patents under this section shall be of no further force and effect, after a total sum of \$500,000,000 has been paid to the Alaska Native Fund and to the United States Treasury pursuant to this subsection.

(h) Final payment; order of computation

When computing the final payment into the Fund the respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsections (b) and (c) hereof; and

(2) then, from sources identified under subsection (d) hereof.

(i) Outer Continental Shelf mineral revenues; provisions of section inapplicable

The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

(Pub. L. 92-203, Sec. 9, Dec. 18, 1971, 85 Stat. 694; Pub. L. 93-153, title IV, Sec. 407(b), Nov. 16, 1973, 87 Stat. 591.)

#### REFERENCES IN TEXT

The Mineral Leasing Act of 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (Sec. 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Sections 6(g) and 6(h) of the Alaska Statehood Act, referred to in subsec. (b), are sections 6(g) and 6(h) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, which are set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

The Alaska Statehood Act, referred to in subsecs. (c) and (d), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48. For complete

classification of this Act to the Code, see Tables.

Section 407 of the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (g), probably means section 407(a) of Pub. L. 93-153, which is set out as a note below.

#### AMENDMENTS

1973 - Subsec. (g). Pub. L. 93-153 inserted provisions covering advance payments into the Alaska Native Fund pursuant to section 407 of the Trans-Alaska Pipeline Authorization Act and the reimbursement of the United States Treasury for payments made.

#### ADVANCE PAYMENTS TO ALASKA NATIVES UNTIL COMMENCEMENT OF DELIVERIES OF NORTH SLOPE CRUDE OIL TO PIPELINE

Section 407(a) of Pub. L. 93-153 authorized \$5,000,000 to be paid from the United States Treasury to the Alaska Native Fund every six months of each fiscal year beginning with the fiscal year ending June 30, 1976, as advance payments chargeable against revenues paid under this section until delivery of North Slope crude oil to a pipeline commenced.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1605, 1635 of this title.

43 USC Sec. 1609

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1609.** Limitation of actions

(a) Complaint, time for filing; jurisdiction; commencement by State official; certainty and finality of vested rights, titles, and interests

Notwithstanding any other provision of law, any civil action to contest the authority of the United States to legislate on the subject matter or the legality of this chapter shall be barred unless the complaint is filed within one year of December 18, 1971, and no such action shall be entertained unless it is commenced by a duly authorized official of the State. Exclusive jurisdiction over such action is hereby vested in the United States District Court for the District of Alaska. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title, and interest of the United States, the Natives, and the State of Alaska will vest with certainty and finality and may be relied upon by all other persons in their

relations with the State, the Natives, and the United States.

(b) Land selection; suspension and extension of rights

In the event that the State initiates litigation or voluntarily becomes a party to litigation to contest the authority of the United States to legislate on the subject matter or the legality of this chapter, all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary to be potentially valuable for mineral development, timber, or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation. In the event of such suspension, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act shall be extended for a period of time equal to the period of time the selection right was suspended.

(Pub. L. 92-203, Sec. 10, Dec. 18, 1971, 85 Stat. 696.)

#### REFERENCES IN TEXT

The Alaska Statehood Act and section 6 of the Alaska Statehood Act, referred to in subsec. (b), are Pub. L. 85-508, July 7, 1958, 72 Stat. 339, and section 6 thereof, as amended, and are set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

43 USC Sec. 1610

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1610.** Withdrawal of public lands

(a) Description of withdrawn public lands; exceptions; National Wildlife Refuge lands exception; time of withdrawal

(1) The following public lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

(A) The lands in each township that encloses all or part of any Native village identified pursuant to subsection (b) of this section;

(B) The lands in each township that is contiguous to or corners on the township that encloses all or part of such Native village; and

(C) The lands in each township that is contiguous to or corners on a township containing lands withdrawn by paragraph (B) of this subsection.

The following lands are excepted from such withdrawal: lands in the National Park System and lands withdrawn or reserved for national defense purposes other than Naval Petroleum Reserve Numbered 4.

(2) All lands located within the townships described in subsection (a)(1) hereof that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from the creation of third party interests by the State under the Alaska Statehood Act.

(3)(A) If the Secretary determines that the lands withdrawn by subsections (a)(1) and (2) hereof are insufficient to permit a Village or Regional Corporation to select the acreage it is entitled to select, the Secretary shall withdraw three times the deficiency from the nearest unreserved, vacant and unappropriated public lands. In making this withdrawal the Secretary shall, insofar as possible, withdraw public lands of a character similar to those on which the village is located and in order of their proximity to the center of the Native village: Provided, That if the Secretary, pursuant to section 1616, and 1621(e) of this title determines there is a need to expand the boundaries of a National Wildlife Refuge to replace any acreage selected in the Wildlife Refuge System by the Village Corporation the withdrawal under this section shall not include lands in the Refuge.

(B) The Secretary shall make the withdrawal provided for in subsection (3)(A) hereof on the basis of the best available information within sixty days of December 18, 1971, or as soon thereafter as practicable.

(b) List of Native villages subject to chapter; review; eligibility for benefits; expiration of withdrawals for villages; alternative eligibility; eligibility of unlisted villages

(1) The Native villages subject to this chapter are as follows:

NAME OF PLACE AND REGION

Afognak, Afognak Island.  
Akhiok, Kodiak.  
Akiachak, Southwest Coastal Lowland.  
Akiak, Southwest Coastal Lowland.  
Akutan, Aleutian.  
Alakanuk, Southwest Coastal Lowland.  
Alatna, Koyukuk-Lower Yukon.  
Aleknagik, Bristol Bay.  
Allakaket, Koyukuk-Lower Yukon.  
Ambler, Bering Strait.

Anaktuvuk, Pass, Arctic Slope.  
Andreafsey, Southwest Coastal Lowland.  
Aniak, Southwest Coastal Lowland.  
Anvik, Koyukuk-Lower Yukon.  
Arctic Village, Upper Yukon-Porcupine.  
Atka, Aleutian.  
Atkassok, Arctic Slope.  
Atmoutlauk, Southwest Coastal Lowland.  
Barrow, Arctic Slope.  
Beaver, Upper Yukon-Porcupine.  
Belkofsky, Aleutian.  
Bethel, Southwest Coastal Lowland.  
Bill Moore's, Southwest Coastal Lowland.  
Biorka, Aleutian.  
Birch Creek, Upper Yukon-Porcupine.  
Brevig Mission, Bering Strait.  
Buckland, Bering Strait.  
Candle, Bering Strait.  
Cantwell, Tanana.  
Canyon Village, Upper Yukon-Porcupine.  
Chalkyitsik, Upper Yukon-Porcupine.  
Chanilut, Southwest Coastal Lowland.  
Cherfornak, Southwest Coastal Lowland.  
Chevak, Southwest Coastal Lowland.  
Chignik, Kodiak.  
Chignik Lagoon, Kodiak.  
Chignik Lake, Kodiak.  
Chistochina, Copper River.  
Chitina, Copper River.  
Chukwuktoligamute, Southwest Coastal Lowland.  
Circle, Upper Yukon-Porcupine.  
Clark's Point, Bristol Bay.  
Copper Center, Copper River.  
Crooked Creek, Upper Kuskokwim.  
Deering, Bering Strait.  
Dillingham, Bristol Bay.  
Dot Lake, Tanana.  
Eagle, Upper Yukon-Porcupine.  
Eek, Southwest Coastal Lowland.  
Egegik, Bristol Bay.  
Eklutna, Cook Inlet.  
Ekuk, Bristol Bay.  
Ekwok, Bristol Bay.  
Elim, Bering Strait.  
Emmonak, Southwest Coastal Lowland.  
English Bay, Cook Inlet.

False Pass, Aleutian.  
Fort Yukon, Upper Yukon-Porcupine.  
Gakona, Copper River.  
Galena, Koyukuk-Lower Yukon.  
Gambell, Bering Sea.  
Georgetown, Upper Kuskokwim.  
Golovin, Bering Strait.  
Goodnews Bay, Southwest Coastal Lowland.  
Grayling, Koyukuk-Lower Yukon.  
Gulkana, Copper River.  
Hamilton, Southwest Coastal Lowland.  
Holy Cross, Koyukuk-Lower Yukon.  
Hooper Bay, Southwest Coastal Lowland.  
Hughes, Koyukuk-Lower Yukon.  
Huslia, Koyukuk-Lower Yukon.  
Igiugig, Bristol Bay.  
Iliamna, Cook Inlet.  
Inalik, Bering Strait.  
Ivanof Bay, Aleutian.  
Kaguyak, Kodiak.  
Katovik, Arctic Slope.  
Kalskag, Southwest Coastal Lowland.  
Kaltag, Koyukuk-Lower Yukon.  
Karluk, Kodiak.  
Kasigluk, Southwest Coastal Lowland.  
Kiana, Bering Strait.  
King Cove, Aleutian.  
Kipnuk, Southeast Coastal Lowland.  
Kivalina, Bering Strait.  
Kobuk, Bering Strait.  
Kokhanok, Bristol Bay.  
Koliganek, Bristol Bay.  
Kongiganak, Southwest Coastal Lowland.  
Kotlik, Southwest Coastal Lowland.  
Kotzebue, Bering Strait.  
Koyuk, Bering Strait.  
Koyukuk, Koyukuk-Lower Yukon.  
Kwethluk, Southwest Coastal Lowland.  
Kwigillingok, Southwest Coastal Lowland.  
Larsen Bay, Kodiak.  
Levelock, Bristol Bay.  
Lime Village, Upper Kuskokwim.  
Lower Kalskag, Southwest Coastal Lowland.  
McGrath, Upper Kuskokwim.  
Makok, Koyukuk-Lower Yukon.  
Manley Hot Springs, Tanana.

Manokotak, Bristol Bay.  
Marshall, Southwest Coastal Lowland.  
Mary's Igloo, Bering Strait.  
Medfra, Upper Kuskokwim.  
Mekoryuk, Southwest Coastal Lowland.  
Mentasta Lake, Copper River.  
Minchumina Lake, Upper Kuskokwim.  
Minto, Tanana.  
Mountain Village, Southwest Coastal Lowland.  
Nabesna Village, Tanana.  
Naknek, Bristol Bay.  
Napaimute, Upper Kuskokwim.  
Napakiak, Southwest Coastal Lowland.  
Napaskiak, Southwest Coastal Lowland.  
Nelson Lagoon, Aleutian.  
Nenana, Tanana.  
Newhalen, Cook Inlet.  
New Stuyahok, Bristol Bay.  
Newtok, Southwest Coastal Lowland.  
Nightmute, Southwest Coastal Lowland.  
Nikolai, Upper Kuskokwim.  
Nikolski, Aleutian.  
Ninilchik, Cook Inlet.  
Noatak, Bering Strait.  
Nome, Bering Strait.  
Nondalton, Cook Inlet.  
Nooiksut, Arctic Slope.  
Noorvik, Bering Strait.  
Northeast Cape, Bering Sea.  
Northway, Tanana.  
Nulato, Koyukuk-Lower Yukon.  
Nunapitchuk, Southwest Coastal Lowland.  
Ohogamiut, Southwest Coastal Lowland.  
Old Harbor, Kodiak.  
Oscarville, Southwest Coastal Lowland.  
Ouzinkie, Kodiak.  
Paradise, Koyukuk-Lower Yukon.  
Pauloff Harbor, Aleutian.  
Pedro Bay, Cook Inlet.  
Perryville, Kodiak.  
Pilot Point, Bristol Bay.  
Pilot Station, Southwest Coastal Lowland.  
Pitkas Point, Southwest Coastal Lowland.  
Platinum, Southwest Coastal Lowland.  
Point Hope, Arctic Slope.  
Point Lay, Arctic Slope.

Portage Creek (Ohgsenakale), Bristol Bay.  
Port Graham, Cook Inlet.  
Port Heiden (Meshick), Aleutian.  
Port Lions, Kodiak.  
Quinhagak, Southwest Coastal Lowland.  
Rampart, Upper Yukon-Porcupine.  
Red Devil, Upper Kuskokwim.  
Ruby, Koyukuk-Lower Yukon.  
Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim.  
Russian Mission (Yukon), Southwest Coastal Lowland.  
St. George, Aleutian.  
St. Mary's, Southwest Coastal Lowland.  
St. Michael, Bering Strait.  
St. Paul, Aleutian.  
Salamatof, Cook Inlet.  
Sand Point, Aleutian.  
Savonoski, Bristol Bay.  
Savoonga, Bering Sea.  
Scammon Bay, Southwest Coastal Lowland.  
Selawik, Bering Strait.  
Seldovia, Cook Inlet.  
Shageluk, Koyukuk-Lower Yukon.  
Shaktoolik, Bering Strait.  
Sheldon's Point, Southwest Coastal Lowland.  
Shishmaref, Bering Strait.  
Shungnak, Bering Strait.  
Slana, Copper River.  
Sleetmute, Upper Kuskokwim.  
South Naknek, Bristol Bay.  
Squaw Harbor, Aleutian.  
Stebbins, Bering Strait.  
Stevens Village, Upper Yukon-Porcupine.  
Stony River, Upper Kuskokwim.  
Takotna, Upper Kuskokwim.  
Tanacross, Tanana.  
Tanana, Koyukuk-Lower Yukon.  
Tatilek, Chugach.  
Tazlina, Copper River.  
Telida, Upper Kuskokwim.  
Teller, Bering Strait.  
Tetlin, Tanana.  
Togiak, Bristol Bay.  
Toksook Bay, Southwest Coastal Lowland.  
Tulusak, Southwest Coastal Lowland.  
Tuntutuliak, Southwest Coastal Lowland.  
Tununak, Southwest Coastal Lowland.

Twin Hills, Bristol Bay.  
Tyonek, Cook Inlet.  
Ugashik, Bristol Bay.  
Unalakleet, Bering Strait.  
Unalaska, Aleutian.  
Unga, Aleutian.  
Uyak, Kodiak.  
Venetie, Upper Yukon-Porcupine.  
Wainwright, Arctic Slope.  
Wales, Bering Strait.  
White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that -

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that -

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a modern and urban character, and a majority of the residents are Natives.

(Pub. L. 92-203, Sec. 11, Dec. 18, 1971, 85 Stat. 696.)

#### REFERENCES IN TEXT

The public land laws, referred to in subsec. (a)(1), are classified generally to this title.

The mining laws, referred to in subsec. (a)(1), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (a)(1), have been defined in sections 351, 505, 530, and 541e of Title 30 to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch.

85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, Sec. 1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is known as the Mineral Leasing Act and is classified generally to chapter 3A (Sec. 181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (Sec. 271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (Sec. 281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables.

The Alaska Statehood Act, as amended, referred to in subsec. (a)(1), (2), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1611, 1613, 1615, 1616, 1621, 1631, 1634, 1635, 1641 of this title; title 16 section 3215.

43 USC Sec. 1611

01/26/98

#### TITLE 43 - PUBLIC LANDS CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

##### **Sec. 1611.** Native land selections

(a) Acreage limitation; proximity of selections and size of sections and units; waiver

(1) During a period of three years from December 18, 1971, the Village Corporation for each Native village identified pursuant to section 1610 of this title shall select, in accordance with rules established by the Secretary, all of the township or townships in which any part of the village is located, plus an area that will make the total selection equal to the acreage to which the village is entitled under section 1613 of this title. The selection shall be made from lands withdrawn by section 1610(a) of this title: Provided, That no Village Corporation may select more than 69,120 acres from lands withdrawn by section 1610(a)(2) of this title, and not more than 69,120 acres from the National Wildlife Refuge System, and not more than 69,120 acres in a National Forest: Provided further, That when a Village Corporation selects the surface estate to lands within the National Wildlife Refuge System or Naval Petroleum Reserve Numbered 4, the Regional Corporation,

for that region may select the subsurface estate in an equal acreage from other lands withdrawn in section 1610(a) of this title within the region, if possible.

(2) Selections made under this subsection (a) of this section shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than 1,280 acres: Provided, That the Secretary in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where -

(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this chapter.

(b) Allocation; reallocation considerations

The difference between twenty-two million acres and the total acreage selected by Village Corporations pursuant to subsection (a) of this section shall be allocated by the Secretary among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) on the basis of the number of Natives enrolled in each region. Each Regional Corporation shall reallocate such acreage among the Native villages within the region on an equitable basis after considering historic use, subsistence needs, and population. The action of the Secretary or the Corporation shall not be subject to judicial review. Each Village Corporation shall select the acreage allocated to it from the lands withdrawn by section 1610(a) of this title.

(c) Computation

The difference between thirty-eight million acres and the 22 million acres selected by Village Corporations pursuant to subsections (a) and (b) of this section shall be allocated among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) as follows:

(1) The number of acres each Regional Corporation is entitled to receive shall be computed (A) by determining on the basis of available data the percentages of all land in Alaska (excluding the southeastern region) that is within each of the eleven regions, (B) by applying that percentage to thirty-eight million acres reduced

by the acreage in the southeastern region that is to be selected pursuant to section 1615 of this title, and (C) by deducting from the figure so computed the number of acres within that region selected pursuant to subsections (a) and (b) of this section.

(2) In the event that the total number of acres selected within a region pursuant to subsections (a) and (b) of the section exceeds the percentage of the reduced thirty-eight million acres allotted to that region pursuant to subsection (c)(1)(B) of this section, that region shall not be entitled to receive any lands under this subsection (c). For each region so affected the difference between the acreage calculated pursuant to subsection (c)(1)(B) of this section and the acreage selected pursuant to subsections (a) and (b) of this section shall be deducted from the acreage calculated under subsection (c)(1)(C) of this section for the remaining regions which will select lands under this subsection (c). The reductions shall be apportioned among the remaining regions so that each region's share of the total reduction bears the same proportion to the total reduction as the total land area in that region (as calculated pursuant to subsection (c)(1)(A) of this section (FOOTNOTE 1) bears to the total land area in all of the regions whose allotments are to be reduced pursuant to this paragraph.

(FOOTNOTE 1) So in original. Probably should be followed by a closing parenthesis.

(3) Before the end of the fourth year after December 18, 1971, each Regional Corporation shall select the acreage allocated to it from the lands within the region withdrawn pursuant to section 1610(a)(1) of this title, and from the lands within the region withdrawn pursuant to section 1610(a)(3) of this title to the extent lands withdrawn pursuant to section 1610(a)(1) of this title are not sufficient to satisfy its allocation: Provided, That within the lands withdrawn by section 1610(a)(1) of this title the Regional Corporation may select only even numbered townships in even numbered ranges, and only odd numbered townships in odd numbered ranges.

(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this chapter, the Regional Corporations may select as follows:

(A) Where such public lands were not withdrawn pursuant to section 1610(a)(3) of this title, but are surrounded by or contiguous to lands withdrawn pursuant to section 1610(a)(3) of this title, and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to

be withdrawn and properly selected.

(B) Where such public lands were withdrawn pursuant to section 1610(a)(1) of this title and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph, it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection (a)(1) of this section or section 1613(h)(9) of this title, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 1616(d)(1) of this title.

(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve - Alaska or within Wildlife Refuges as the boundaries of those refuges exist on December 18, 1971.

(d) Village Corporation for Native village at Dutch Harbor; lands and improvements and patent for Village Corporation

To insure that the Village Corporation for the Native village at Dutch Harbor, if found eligible for land grants under this chapter, has a full opportunity to select lands within and near the village, no federally owned lands, whether improved or not, shall be disposed of pursuant to the Federal surplus property disposal laws for a period of two years from December 18, 1971. The Village Corporation may select such lands and improvements and receive patent to them pursuant to section 1613(a) of this title.

(e) Disputes over land selection rights and boundaries; arbitration

Any dispute over the land selection rights and the boundaries of Village Corporations shall be resolved by a board of arbitrators consisting of one person selected by each of the Village Corporations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such

additional person or persons to be selected by the arbitrators selected by the Village Corporations.

(Pub. L. 92-203, Sec. 12, Dec. 18, 1971, 85 Stat. 701; Pub. L. 96-487, title XIV, Sec. 1402, 1403, Dec. 2, 1980, 94 Stat. 2492.)

#### REFERENCES IN TEXT

The public land laws, referred to in subsec. (c)(4), are classified generally to this title.

The Federal surplus property disposal laws, referred to in subsec. (d), are generally classified to chapter 10 (Sec. 471 et seq.) of Title 40, Public Buildings, Property, and Works.

#### AMENDMENTS

1980 - Subsec. (a)(2). Pub. L. 96-487, Sec. 1402, inserted proviso specifying conditions under which Secretary in his discretion and upon request of concerned Village Corporation may waive the whole section requirement.

Subsec. (c)(4). Pub. L. 96-487, Sec. 1403, added par. (4).

#### SEPARABILITY

Pub. L. 95-178, Sec. 3(b), Nov. 15, 1977, 91 Stat. 1370, provided that: "If any provision of this Act (enacting section 1628 of this title, amending sections 1613 and 1615 of this title, and amending provisions set out as a note under this section) or the applicability thereof is held invalid, the validity of the remainder of this Act, of section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended (set out below), of the document referred to in section 12(b) thereof, and the duties and obligations of the Secretary of the Interior, the State of Alaska, and Cook Inlet Region, Incorporated, with respect thereto, shall not be affected thereby."

#### AVAILABILITY OF PROPERTY ACCOUNT FOR PURPOSES INVOLVING PUBLIC SALE OF PROPERTY BY FEDERAL AGENCIES

Pub. L. 100-202, Sec. 101(j) (Sec. 127), Dec. 22, 1987, 101 Stat. 1329-311, 1329-318, provided that: "In addition to the purposes for which it is now available, the property account established by section 12(b) of the Act of January 2, 1976, as amended (43 U.S.C. 1611 note) (section 12(b) of Pub. L. 94-204 set out below) shall be available hereafter for purposes involving any public sale of property by any agency of the United States, including the Department of Defense, or any element thereof."

#### AUTHORITY TO CONVEY LANDS UNDER APPLICATION FOR SELECTION TO COOK INLET REGION, INC., FOR RECONVEYANCE TO VILLAGE CORPORATIONS;

TENDER OF CONVEYANCE OF DESCRIBED LAND TO COOK INLET REGION, INC.,  
ACCEPTANCE BY REGION, AND EFFECT ON ENTITLEMENT

Pub. L. 94-456, Sec. 4, 5, Oct. 4, 1976, 90 Stat. 1935, provided  
that:

"Sec. 4. (a) The Secretary is authorized to convey lands under application for selection by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations from lands withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act (section 1610(a)(3) of this title) (hereinafter, The Settlement Act') (this chapter), and with the consent of the Region affected, as provided in section 12 of the Act of January 2, 1976 (89 Stat. 1145, 1150) (set out as a note below), from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

"(b) The Secretary shall not be required to survey any land conveyed pursuant to subsection 4(a) until the Village Corporation entitlement for all eligible Village Corporations has been conveyed. With respect to the conveyances made by the Secretary in the manner authorized by subsection 4(a), the Secretary shall survey the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, pursuant to subsection 4(a) and monument to boundary lines at angle points and intervals of approximately two miles on straight lines. The Secretary shall not be required to provide ground survey or monumentation along meanderable water boundaries. Each township corner located within the exterior boundary of land conveyed shall be located and monumented. Any areas within such tracts that are to be reconveyed pursuant to section 14(C)(1) and (2) of the Settlement Act (section 1613(c)(1) and (2) of this title) shall also be surveyed pursuant to 43 C.F.R. 2650.

"(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under the Settlement Act (this chapter) and subject to the provisions of that Act, except as provided by this Act (amending section 1615(a) and (d) of this title and amending provisions set out as a note below).

"Sec. 5. (a) The Secretary shall, within sixty days after the effective date of this Act (Oct. 4, 1976), tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted

by the Region, such lands shall be considered 1,687.2 acre-equivalents within the meaning of paragraph I(C)(2)(e)(iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said section 12 of the Act of January 2, 1976 (set out as a note below), does not take effect then the entitlement of Cook Inlet Region, Incorporated, under section 12(c) (section 1611(c) of this title) shall be reduced by 8,346 acres.

"(b) The land referred to in subsection (a) is described as a parcel of land located in section 7 of township 13 north, range 2 west of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government lots 5 and 7 and that portion of the SE 1/4 NW 1/4 lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project No. F-042-1(2), and more particularly described as follows:

"Commencing at the north quarter corner of said section 7;

"thence south 00 degrees 12 minutes east, a distance of 1,320.0 feet, more or less, to the northeast corner of said southeast quarter northwest quarter;

"thence west along the north line of southeast quarter northwest quarter a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true point of beginning;

"thence south 53 degrees 16 minutes 15 seconds west along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Station 216 plus 51.35;

"thence continuing along said north right-of-way line along a curve to the right with a central angle of 12 degrees 51 minutes 34 seconds, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said southeast quarter northwest quarter;

"thence north 00 degrees 12 minutes west along said west line, being common with the east line of Government lot 5, a distance of 910.0 feet, more or less, to the northwest corner of said southeast quarter northwest quarter;

"thence east along the north line of said southeast quarter northwest quarter, a distance of 1,225.0 feet, more or less, to the point of beginning; containing 56.24 acres, more or less."

SETTLEMENT OF CLAIMS AND CONSOLIDATION OF OWNERSHIP AMONG THE UNITED STATES, THE COOK INLET REGION, INC. AND THE STATE OF ALASKA  
Pub. L. 94-204, Sec. 12, Jan. 2, 1976, 89 Stat. 1150, as amended  
by Pub. L. 94-456, Sec. 3, Oct. 4, 1976, 90 Stat. 1935; Pub. L.

95-178, Sec. 3(a), Nov. 15, 1977, 91 Stat. 1369; Pub. L. 96-55, Sec. 2, Aug. 14, 1979, 93 Stat. 386; Pub. L. 96-311, July 17, 1980, 94 Stat. 947; Pub. L. 96-487, title XIV, Sec. 1435, Dec. 2, 1980, 94 Stat. 2545; Pub. L. 97-468, title VI, Sec. 606(d), Jan. 14, 1983, 96 Stat. 2566; Pub. L. 99-500, Sec. 101(h) (title III, Sec. 319), Oct. 18, 1986, 100 Stat. 1783-242, 1783-286, and Pub. L. 99-591, Sec. 101(h) (title III, Sec. 319), Oct. 30, 1986, 100 Stat. 3341-242, 3341-287; Pub. L. 101-511, title VIII, Sec. 8133(a), Nov. 5, 1990, 104 Stat. 1909; Pub. L. 102-154, title III, Sec. 320, Nov. 13, 1991, 105 Stat. 1036; Pub. L. 103-204, Sec. 32(b), Dec. 17, 1993, 107 Stat. 2413, provided that:

"(a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region Incorporated (hereinafter in this section referred to as the 'Region'), and the State of Alaska, within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

"(1) the State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b);

"(2) the Region and all plaintiffs/appellants have withdrawn from Cook Inlet against Kleppe, numbered 75-2232, ninth circuit, and such proceedings have been dismissed with prejudice; and

"(3) all Native village selections under section 12 of the Settlement Act (section 1611 of this title) of the lands within Lake Clark, Lake Kontrashibuna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339) (set out as note preceding section 21 of Title 48, Territories and Insular Possessions).

"(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law.

"(1) title to approximately 10,240 acres of land within the

Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustumena, or the mineral estate in the waterfront zone described in the document referred to in this subsection;

"(2) title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

"(3) title to Federal interests in township 10 south, range 9 west, F.M., and township 20 north, range 9 east, S.M.;

"(4) title to township 1 south, range 21 west, S.M.: sections 3 to 10, 15 to 22, 29, and 30; and rights to metalliferous minerals in the following sections in township 1 north, range 21 west, S.M.: sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36;

"(5) title to twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region: unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist, in which case the Secretary shall convey such entitlement;

"(6) title to lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services: Provided, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(l) of the Settlement Act (section 1621(l) of this title): Provided further, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the range and subject to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the range with the concurrence of the Region so long as the Region owns such lands. Section 22(e) of the Settlement Act (section 1621(e) of this title), concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land conveyed without restriction to a native corporation.

"(7)(i) Until the obligations of the Secretary and the Administrator of General Services under section 12(b)(5) and (6) of this Act (subsec. (b)(5), (6) of this note) are otherwise fulfilled: (a) Cook Inlet Region, Incorporated, may, by using the account established in subsection 12(b)(7)(iv) (subsec.

(b)(7)(iv) of this note), bid, as any other bidder for property as defined in subsection 12(b)(7)(vii) (subsec. (b)(7)(vii) of this note),, (sic) wherever located, in accordance with the applicable laws and regulations of the Federal agency or instrumentality offering such property for sale. No preference right of any type will be offered to Cook Inlet Region Incorporated, for bidding on property under this section 12(b)(7) (subsec. (b)(7) of this note). There shall be no advertising other than that ordinarily required by such sale. (sic) (b) the Administrator of General Services may, at the discretion of the Administrator, tender to the Secretary any surplus property otherwise to be disposed of pursuant to 40 U.S.C. 484(e)(3) to be offered Cook Inlet Region, Incorporated for a period of 90 days so as to aid in the fulfillment of the Secretary's program purposes under the Alaska Native Claims Settlement Act (this chapter): Provided, That nothing in these subsections 12(b)(7)(i)(b) or (ii) (subsec. (b)(7)(i)(b) or (ii) of this note) shall be construed to establish, enlarge or diminish authority of the Administrator or the Secretary within the State of Alaska. Prior to any disposition under subsection 12(b)(7)(i)(b) (subsec. (b)(7)(i)(b) of this note), the Administrator shall notify the governing body of the locality where such property is located and any appropriate state agency, and no such disposition shall be made if such governing body or state agency, within ninety days of such notification formally advises the Administrator that it objects to the proposed disposition.

"(ii) Subject to the exceptions stated in section 12(b)(9) (subsec. (b)(9) of this note), and notwithstanding the foregoing subsection 12(b)(7)(i) (subsec. (b)(7)(i) of this note) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b)(5) and (6) (subsec. (b)(5) and (6) of this note) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b)(5) and (6) (subsec. (b)(5) and (6) of this note). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate

Federal official shall promptly transfer such property;

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii) (subsec. (b)(7)(i) or (ii) of this note), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act (subsec. (b) of this note) shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7) (subsec. (b)(7) of this note), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.

"(iv) The Secretary of the Treasury shall establish a Cook Inlet Region, Incorporated property account, which shall be available for the purpose of bidding on property, as defined in subsection 12(b)(7)(vii) (subsec. (b)(7)(vii) of this note), or paying for the conveyance of property pursuant to subsections 12(b)(7)(i) or (ii) (subsec. (b)(7)(i), (ii) of this note). The balance of the account shall be the sum of (1) the acre-equivalent exchange value established by paragraph I(C)(2)(e)(iii)(A) of the document referred to in this subsection, of the unfulfilled entitlement of Cook Inlet Region, Incorporated, (on) December 2, 1980, to acre or acre-equivalents

under paragraph I(C)(2)(g) of the document referred to in this subsection 12(b) (subsec. (b) of this note) and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of seven townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1) of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii) (subsec. (b)(7)(iii) of this note) to reflect transfers or successful bids under section 12(b)(5) and (6) of this section (subsec. (b)(5) and (6) of this note) or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated.

"(v) The amount charged against the Treasury account established under subsection 12(b)(7)(iv) (subsec. (b)(7)(iv) of this note) for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 et seq., or any legislative or executive delegation under that Act, shall be treated as proceeds of dispositions of surplus property for the purpose of determining the basis for calculating direct expenses pursuant to 40 U.S.C. 485(b), as amended.

"(vi) The basis for computing gain or loss on subsequent sale or other disposition of lands or interests in land conveyed to Cook Inlet Region, Incorporated, under this subsection, for purposes of any Federal, State or local tax imposed on or measured by income, shall be the fair value of such land or interest in land at the time of receipt. The amount charged against Cook Inlet's entitlement under I(C)(2)(e) of the document referred to in subsection (b) of this section (subsec. (b) of this note) shall be prima facie evidence of such fair value.

"(vii) Notwithstanding the definition of 'property' found in the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 472(d)), as used in this section 12(b)(7) (subsec. (b)(7) of this note), 'property' means any property - real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds), or mixed - owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any Government

corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consummating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed.

"(8) Subject to the exceptions stated in section 12(b)(9) (subsec. (b)(9) of this note), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs I(C)(2)(a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b)(5) and (6) (subsec. (b)(5) and (6) of this note) are fulfilled:

Provided, That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: Provided, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) (subsec. (b)(7) of this note) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of

that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act (probably means subpar. (i)(D) of this paragraph), the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2)(a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982 (section 1205(a)(2) of Title 45, Railroads), the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act (subsec. (b) of this note) if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: Provided, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: And provided further, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 (see Short Title note set out under section 1201 of Title 45) or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries

of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: Provided, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: And provided further, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D) (subsec. (b)(8)(i)(D) of this note).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947) (amending this note).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act (subsec. (b)(7)(iv) of this note);

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) (subsec. (b)(7) of this note) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by

law through which the entitlement of the Region may be completed.

"(9) No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended (subsec. (b)(6) to (8) of this note), shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions) (excepting section 906(e) of the Alaska National Interest Lands Conservation Act (section 1635(e) of this title)), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act (subsec. (a) or (b) of this section or section 1615(b) or 1621(f) of this title, respectively), section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154) (subsec. (h) of this note), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act (not classified to the Code): Provided, however, That nothing within this subsection 12(b)(9) (subsec. (b)(9) of this note) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act (subsec. (b) of this note).

"(10) For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of

September 1, 1972.'.

"(11) Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act (section 1635 of this title) and section 6(i) of the Alaska Statehood Act (72 Stat. 339) (set out in a note preceding section 21 of Title 48, Territories and Insular Possessions);

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: Provided, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11) (subsec. (b)(11) of this note), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a)(1) of this section, shall be considered and treated as conveyances under the Settlement Act (this chapter) unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h)(8) of the Settlement Act (sections 1611(c) and 1613(h)(8) of this title). Of

such lands, 3.58 townships of oil and gas and coal in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h)(8) (section 1613(h)(8) of this title). The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h)(8) of the Settlement Act (sections 1611(c) and 1613(h)(8) of this title) would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any Regional Corporation or Village Corporation, notwithstanding any provisions of the Settlement Act (this chapter) to the contrary.

"(d)(1) The Secretary shall convey to the State of Alaska all right, title, and interest of the United States in and to all of the following lands:

"(i) At least 22.8 townships and no more than 27 townships of land from those presently withdrawn under section 17(d)(2) of the Settlement Act (section 1616(d)(2) of this title) in the Lake Iliamna area and within the Nushagak River or Koksetana River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

"(ii) 26 townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in the document referred to in subsection (b).

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions): Provided, however, That this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

"(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title, and interest of the United States in and to all that tract generally known as the Campbell tract and more particularly identified in the document referred to in subsection (b) except for one compact union of land, which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: Provided, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public

purposes. An area encompassing approximately sixty-two acres and depicted on the map entitled 'Native Heritage Park Proposal' and on file with the Secretary shall be managed in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended (section 869 et seq. of this title), and regulations developed pursuant to that Act, and the conveyance of such lands shall also contain a provision that, if the lands cease to be used for the purposes for which they were conveyed; the lands and title thereto shall revert to the United States: Provided, however, That the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173) (section 869(b) of this title), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof: Provided further, That to the extent necessary, any and all conveyance documents executed concerning the conveyance of the lands referred to in this proviso shall be deemed amended accordingly to conform to this proviso.

"(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions), 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River area as described in the document referred to in subsection (b).

"(e) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act (section 818 of Title 16, Conservation). This conveyance shall be considered and treated as a conveyance under the Settlement Act (this chapter).

"(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Settlement Act (section 1621(f) of this title), except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

"(g) The Secretary, through the National Park Service, shall

provide financial assistance, not to exceed \$25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land use plan for the west side of Cook Inlet, including an analysis of alternative uses of such lands.

"(h) Village Corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Settlement Act (section 1611(b) of this title), notwithstanding any provision of that Act to the contrary.

"(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof, and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored."

CONVEYANCE TO KONIAG, INC., A REGIONAL CORPORATION, OF THE  
SUBSURFACE ESTATE OF LANDS TO BE SELECTED

Pub. L. 94-204, Sec. 15, Jan. 2, 1976, 89 Stat. 1154, as amended by Pub. L. 96-487, title IX, Sec. 911, Dec. 2, 1980, 94 Stat. 2447, provided that:

"(a) The Secretary shall convey under section 12(a)(1) and 14(f) of the Settlement Act (sections 1611(a)(1) and 1613(f) of this title) to Koniag, Incorporated, a Regional Corporation established pursuant to section 7 of said Act (section 1606 of this title), such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public Land Order 5397 for identification for selection by it located in the following described area:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S. M., Alaska;

"Notwithstanding the withdrawal of such lands by Public Land Order 5179, as amended, pursuant to section 17(d)(2) of the Settlement Act (section 1616(d)(2) of this title): Provided, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act (section 1616(d)(2)(A) of this title) of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate, including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

"The United States shall make available to Koniag, its successors and assigns, such sand and gravel as is reasonably necessary for the construction of facilities and rights-of-way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of section 601 et seq., title 30, United States Code, and the regulations implementing that statute which are then in effect.

"(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(E) of the Settlement Act (section 1616(d)(2)(E) of this title), shall not be available for selection by Koniag Region, Incorporated."

SELECTION OF LANDS BY VILLAGE CORPORATION OF TATITLEK  
Pub. L. 94-204, Sec. 16, Jan. 2, 1976, 89 Stat. 1155, provided

that: "Within ninety days after the date of enactment of this Act (Jan. 2, 1976), the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands: Copper River Meridian

"Township 9 south, range 3 east, sections 23, 26, 31-35.

"Township 10 south, range 3 east, sections 2-27, 34-36.

"Township 11 south, range 4 east, sections 5, 6, 8, 9, 16, 17, 20-22, 27-29, 33-35.

"Township 9 south, range 3 east, sections 3-6, 9-11.

"Township 9 south, range 3 east, sections 14-16, 21, 22, 27, 28.

"The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12(a) or 12(b) of the Settlement Act (section 1611(a) or 1611(b) of this title), and were withdrawn pursuant to section 11 of that Act (section 1610 of this title).

"The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the National Forest System. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to section 14(f) of the Settlement Act (section 1613(f) of this title)."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1613, 1616, 1620, 1621, 1627, 1629a, 1631, 1635, 1641 of this title; title 45 section 1205.

43 USC Sec. 1612

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1612.** Surveys

(a) Areas for conveyance to Village Corporations; monumentation of exterior boundaries; meanderable water boundaries exempt from requirement; land occupied as primary place of residence or business, or for other purposes and other patentable lands as subject to survey

The Secretary shall survey the areas selected or designated for conveyance to Village Corporations pursuant to the provisions of this chapter. He shall monument only exterior boundaries of the

selected or designated areas at angle points and at intervals of approximately two miles on straight lines. No ground survey or monumentation will be required along meanderable water boundaries. He shall survey within the areas selected or designated land occupied as a primary place of residence, as a primary place of business, and for other purposes, and any other land to be patented under this chapter.

(b) Withdrawals, selections, and conveyances pursuant to chapter: current plats of surveys or protraction diagrams; conformity to Land Survey System

All withdrawals, selections, and conveyances pursuant to this chapter shall be as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the Bureau of the State where protraction diagrams of the Bureau of Land Management are not available, and shall conform as nearly as practicable to the United States Land Survey System.

(Pub. L. 92-203, Sec. 13, Dec. 18, 1971, 85 Stat. 702.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1631 of this title.

43 USC Sec. 1613

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1613.** Conveyance of lands

(a) Native villages listed in section 1610 and qualified for land benefits; patents for surface estates; issuance; acreage

Immediately after selection by a Village Corporation for a Native village listed in section 1610 of this title which the Secretary finds is qualified for land benefits under this chapter, the Secretary shall issue to the Village Corporation a patent to the surface estate in the number of acres shown in the following table:

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If the village had on the 1970 census enumeration date a Native population between - It shall be entitled to a patent to an area of public lands equal to -  
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25 and 99	69,120 acres.
100 and 199	92,160 acres.
200 and 399	115,200 acres.

400 and 599	138,240 acres.
600 or more	161,280 acres.

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The lands patented shall be those selected by the Village Corporation pursuant to section 1611(a) of this title. In addition, the Secretary shall issue to the Village Corporation a patent to the surface estate in the lands selected pursuant to section 1611(b) of this title.

(b) Native villages listed in section 1615 and qualified for land benefits; patents for surface estates; issuance; acreage  
Immediately after selection by any Village Corporation for a Native village listed in section 1615 of this title which the Secretary finds is qualified for land benefits under this chapter, the Secretary shall issue to the Village Corporation a patent to the surface estate to 23,040 acres. The lands patented shall be the lands within the township or townships that enclose the Native village, and any additional lands selected by the Village Corporation from the surrounding townships withdrawn for the Native village by section 1615(a) of this title.

(c) Patent requirements; order of conveyance; vesting date; advisory and appellate functions of Regional Corporations on sales, leases, or other transactions prior to final commitment  
Each patent issued pursuant to subsections (a) and (b) of this section shall be subject to the requirements of this subsection.

Upon receipt of a patent or patents:

(1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation) as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry;

(2) the Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied as of December 18, 1971 by a nonprofit organization;

(3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable

community needs: Provided, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;

(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971; and

(5) for a period of ten years after December 18, 1971, the Regional Corporation shall be afforded the opportunity to review and render advice to the Village Corporations on all land sales, leases or other transactions prior to any final commitment.

There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this chapter in order that they may fulfill the reconveyance requirements of this subsection. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.

(d) Rule of approximation with respect to acreage limitations

The Secretary may apply the rule of approximation with respect to the acreage limitations contained in this section.

(e) Surface and/or subsurface estates to Regional Corporations

Immediately after selection by a Regional Corporation, the Secretary shall convey to the Regional Corporation title to the surface and/or the subsurface estates, as is appropriate, in the lands selected.

(f) Patents to Village Corporations for surface estates and to Regional Corporations for subsurface estates; excepted lands; mineral rights, consent of Village Corporations  
When the Secretary issues a patent to a Village Corporation for

the surface estate in lands pursuant to subsections (a) and (b) of this section, he shall issue to the Regional Corporation for the region in which the lands are located a patent to the subsurface estate in such lands, except lands located in the National Wildlife Refuge System and lands withdrawn or reserved for national defense purposes, including Naval Petroleum Reserve Numbered 4, for which in lieu rights are provided for in section 1611(a)(1) of this title: Provided, That the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village shall be subject to the consent of the Village Corporation.

(g) Valid existing rights preserved; saving provisions in patents; patentee rights; administration; proportionate rights of patentee

All conveyances made pursuant to this chapter shall be subject to valid existing rights. Where, prior to patent of any land or minerals under this chapter, a lease, contract, permit, right-of-way, or easement (including a lease issued under section 6(g) of the Alaska Statehood Act) has been issued for the surface or minerals covered under such patent, the patent shall contain provisions making it subject to the lease, contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the State or the United States as lessor, contractor, permitter, or grantor, in any such leases, contracts, permits, rights-of-way, or easements covering the estate patented, and a lease issued under section 6(g) of the Alaska Statehood Act shall be treated for all purposes as though the patent had been issued to the State. The administration of such lease, contract, permit, right-of-way, or easement shall continue to be by the State or the United States, unless the agency responsible for administration waives administration. In the event that the patent does not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, permit, right-of-way, or easement by the State or the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the patent and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

(h) Authorization for land conveyances; surface and subsurface estates

The Secretary is authorized to withdraw and convey 2 million acres of unreserved and unappropriated public lands located outside the areas withdrawn by sections 1610 and 1615 of this title, and (FOOTNOTE 1) follows:

(FOOTNOTE 1) So in original. Probably should be "as".

(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.

(2) The Secretary may withdraw and convey to a Native group that does not qualify as a Native village, if it incorporates under the laws of Alaska, title to the surface estate in not more than 23,040 acres surrounding the Native group's locality. The subsurface estate in such land shall be conveyed to the appropriate Regional Corporation unless the lands are located in a Wildlife Refuge;

(3) The Secretary may withdraw and convey to the Natives residing in Sitka, Kenai, Juneau, and Kodiak, if they incorporate under the laws of Alaska, the surface estate of lands of a similar character in not more than 23,040 acres of land, which shall be located in reasonable proximity to the municipalities. The subsurface estate in such lands shall be conveyed to the appropriate Regional Corporation unless the lands are located in a Wildlife Refuge;

(4) The Secretary shall withdraw only such lands surrounding the villages and municipalities as are necessary to permit the conveyance authorized by paragraphs (2) and (3) to be planned and effected;

(5) The Secretary may convey to a Native, upon application within two years from December 18, 1971, the surface estate in not to exceed 160 acres of land occupied by the Native as a primary place of residence on August 31, 1971. Determination of occupancy shall be made by the Secretary, whose decision shall be final. The subsurface estate in such lands shall be conveyed to the appropriate Regional Corporations unless the lands are located on a Wildlife Refuge;

(6) The Secretary shall charge against the 2 million acres authorized to be conveyed by this section all allotments approved pursuant to section 1617 of this title during the four years following December 18, 1971. Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended (43 U.S.C. 270-11 to 270-13), (FOOTNOTE 2) in a Native Allotment approved pursuant to section 1617 of this title during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such

lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended.

(FOOTNOTE 2) See References in Text note below.

(7) The Secretary may withdraw and convey lands out of the National Wildlife Refuge System and out of the National Forests, for the purposes set forth in paragraphs (1), (2), (3), and (5) of this subsection; and

(8)(A) Any portion of the 2 million acres not conveyed by this subsection shall be allocated and conveyed to the Regional Corporations on the basis of population.

(B) Such allocation as the Regional Corporation for southeastern Alaska shall receive under this paragraph shall be selected and conveyed from lands that were withdrawn by sections 1615(a) and 1615(d) of this title and not selected by the Village Corporations in southeastern Alaska; except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas are not available for selection or conveyance under this paragraph.

(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary, or, as to Cook Inlet Region, Incorporated, from those areas designated for in lieu selection in paragraph I.B.(2) of the document identified in section 12(b) of Public Law 94-204. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 1616(d)(1) of this title, and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary.

(10) Notwithstanding the provisions of subsection 1621(h) of this title the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

(11) For purposes set forth in paragraphs (1), (2), (3), (5),

and (6) of this subsection, the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist on December 18, 1971.

(Pub. L. 92-203, Sec. 14, Dec. 18, 1971, 85 Stat. 702; Pub. L. 95-178, Sec. 2, Nov. 15, 1977, 91 Stat. 1369; Pub. L. 96-487, title XIV, Sec. 1404, 1405, 1406(a)-(d), Dec. 2, 1980, 94 Stat. 2493, 2494; Pub. L. 104-42, title I, Sec. 104, Nov. 2, 1995, 109 Stat. 355.)

#### REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, referred to in subsec. (g), is section 6(g) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

Act of March 8, 1922, as amended, referred to in subsec. (h)(6), is act Mar. 8, 1922, ch. 96, 42 Stat. 415, as amended, which enacted sections 270-11 to 270-13 of this title. Sections 270-11 and 270-13 of this title were repealed by Pub. L. 94-579, title VII, Sec. 703(a), Oct. 21, 1976, 90 Stat. 2789. For complete classification of this Act to the Code, see Tables.

Section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended, referred to in subsec. (h)(6), (9), is section 12 of Pub. L. 94-204, Jan. 2, 1976, 89 Stat. 1150, which is set out as a note under section 1611 of this title.

#### AMENDMENTS

1995 - Subsec. (c). Pub. L. 104-42 inserted last par.

1980 - Subsec. (c)(1). Pub. L. 96-487, Sec. 1404(a), inserted "as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation)" after "in the tract occupied".

Subsec. (c)(2). Pub. L. 96-487, Sec. 1404(b), inserted "as of December 18, 1971" after "in any tract occupied".

Subsec. (c)(3). Pub. L. 96-487, Sec. 1405, inserted provision authorizing the Village Corporation and the Municipal Corporation or the State in trust to agree to a lesser amount than 1,280 acres and requiring any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed be paid to the Village Corporation by the Municipal Corporation or the State in trust.

Subsec. (c)(4). Pub. L. 96-487, Sec. 1404(c), inserted "as such existed on December 18, 1971" after "navigation aids" and "as such airport sites, runways, and other facilities existed as of December 18, 1971" after "airport runways". Amendment, which

directed that subsec. (c)(4) end with a period, was executed by substituting "; and" to reflect the probable intent of Congress.

Subsec. (h)(1). Pub. L. 96-487, Sec. 1406(a), inserted provision that only title to the surface estate be conveyed for lands located in a Wildlife Refuge when the cemetery or historical site is greater than 640 acres.

Subsec. (h)(2), (5). Pub. L. 96-487, Sec. 1406(b), inserted "unless the lands are located in a Wildlife Refuge" after "Regional Corporation".

Subsec. (h)(6). Pub. L. 96-487, Sec. 1406(c), substituted provision that any minerals reserved by the United States pursuant to the Act of Mar. 8, 1922, in a Native Allotment approved pursuant to section 1617 of this title during the period Dec. 18, 1971 through Dec. 18, 1975, be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of Act Jan. 2, 1976, for provision that the Secretary charge against the 2 million acres authorized all allotments approved pursuant to section 1617 of this title during the four years following Dec. 18, 1971.

Subsec. (h)(9) to (11). Pub. L. 96-487, Sec. 1406(d), added pars. (9) to (11).

1977 - Subsec. (h)(8). Pub. L. 95-178 designated existing provisions as subpar. (A) and added subpar. (B).

#### CLAIM TO SUBSURFACE ESTATE OF LANDS IN WILDLIFE REFUGE; ENTITLEMENT TO IN LIEU SURFACE OR SUBSURFACE ESTATE; TIME LIMITATION; WAIVER

Section 1406(e) of Pub. L. 96-487 provided that: "Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act (subsec. (h) of this section) which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act (section 1611(c)(4) of this title and subsec. (h)(9) of this section). Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act (Dec. 2, 1980). Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act (Dec. 18, 1971)."

#### ESCROW ACCOUNT PENDING CONVEYANCE OF WITHDRAWN LANDS; PROCEEDS NOT DEPOSITED IN ACCOUNT; PAYMENTS; INTEREST; DEPOSIT OF ACCOUNT IN UNITED STATES TREASURY; PUBLIC EASEMENTS; AUTHORITY FOR PAYMENT OUT OF TREASURY FUNDS

Pub. L. 94-204, Sec. 2, Jan. 2, 1976, 89 Stat. 1146, as amended by Pub. L. 96-487, title XIV, Sec. 1411, Dec. 2, 1980, 94 Stat. 2497; Pub. L. 99-396, Sec. 22, Aug. 27, 1986, 100 Stat. 846; Pub. L. 100-581, title II, Sec. 218, Nov. 1, 1988, 102 Stat. 2942, provided that:

"(a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act (this chapter), any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands, including wildlife proceeds received between the date of withdrawal and the date of conveyance from harvests on lands conveyed pursuant to the Act, withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act (probably means Dec. 2, 1980), whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: Provided, That the interest on proceeds received prior to January 2, 1976, shall be calculated and paid at the rate of the earnings on Individual Indian Moneys in the custody of the Secretary of the Interior pursuant to sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and invested by him pursuant to the Act of June 24, 1938 (25 U.S.C. 162a), from the date of receipt to January 2, 1976. Effective January 2, 1976, the interest so calculated shall be added to the principal amount of such proceeds. The interest on this total amount and on proceeds received on or after January 2, 1976, shall be calculated and paid as though such proceeds and previously calculated interest had been deposited in the escrow account from January 2, 1976, or the date of receipt, whichever occurs later, to the date of payment to the affected Corporation.(:) Provided further, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: And provided further, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the

Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act (this chapter), or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act (enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title).

"(5) Lands withdrawn under this subsection include all Federal lands identified under appendices A, B-1, and B-2 of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204) (set out as a note under section 1611 of this title) for Cook Inlet Region, Incorporated, and are deemed withdrawn as of the date established in subsection (a) of section 2 of the Act of January 2, 1976 (this subsection).

"(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: Provided, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 (52 U.S.C. 1037) (section 162a of Title 25, Indians): Provided further, That this section shall not be construed to create or

terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act (this chapter).

"(c) Any and all proceeds from public easements reserved pursuant to section 17(b)(3) of the Settlement Act (section 1616(b)(3) of this title), from or after the date of enactment of this Act (Jan. 2, 1976), shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

"(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act (section 1608(d) or section 1608(f) of this title).

"(e) The Secretary shall calculate the amounts payable pursuant to this section and notify the affected Corporation of the results of his calculations. The affected Corporation shall have thirty days in which to appeal the Secretary's calculations after which the Secretary shall promptly make a final determination of the amounts payable. The Secretary shall certify such final determinations to the Secretary of the Treasury and each determination shall constitute a final judgment, award, or compromise settlement under section 1304 of title 31 of the United States Code. The Secretary of the Treasury is authorized and directed to pay such amounts to the appropriate Corporation out of funds in the Treasury: Provided, That if the lands from which the proceeds and interest entitlement are derived have not been conveyed to the selecting Native Corporation at the time the Secretary makes his final determination, the Secretary of the Treasury is authorized and directed to pay such amount into the escrow account where it will earn interest and be disbursed in the same manner as other proceeds and interest."

#### BOUNDARY BETWEEN SOUTHEASTERN AND CHUGACH REGIONS; HUNTING AND FISHING RIGHTS OF NATIVES OF VILLAGE OF YAKUTAT

Pub. L. 94-204, Sec. 11, Jan. 2, 1976, 89 Stat. 1150, provided that: "The boundary between the southeastern and Chugach regions shall be the 141st meridian: Provided, That the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the Village of Yakutat the same rights and privileges to use any lands which may be conveyed to the Regional Corporation in the vicinity of Icy Bay for such purposes as such Natives have traditionally made thereof, including, but not limited to, subsistence hunting, fishing and gathering, as the Regional Corporation accords to its own shareholders, and shall take no

unreasonable or arbitrary action relative to such lands for the primary purpose and having the effect, of impairing or curtailing such rights and privileges."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1610, 1611, 1615, 1617, 1618, 1620, 1621, 1627, 1629a, 1629b, 1629d, 1631, 1632, 1633, 1635, 1636, 1638, 1641 of this title; title 16 sections 3102, 3192; title 25 section 3902; title 30 section 1702; title 45 section 1205.

43 USC Sec. 1614

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1614.** Timber sale contracts; modification; timber from contingency area

(a) Notwithstanding the provisions of existing National Forest timber sale contracts that are directly affected by conveyances authorized by this chapter, the Secretary of Agriculture is authorized to modify any such contract, with the consent of the purchaser, by substituting, to the extent practicable, timber on other national forest lands approximately equal in volume, species, grade, and accessibility for timber standing on any land affected by such conveyances, and, on request of the appropriate Village Corporation the Secretary of Agriculture is directed to make such substitution to the extent it is permitted by the timber sale contract without the consent of the purchaser.

(b) No land conveyed to a Native Corporation pursuant to this chapter or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this chapter, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this chapter shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term "contingency area" means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be

obtained from one or more areas definitely designated for timbering in the contract.

(Pub. L. 92-203, Sec. 15, Dec. 18, 1971, 85 Stat. 705; Pub. L. 96-487, title IX, Sec. 908, Dec. 2, 1980, 94 Stat. 2447.)

#### REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

#### AMENDMENTS

1980 - Pub. L. 96-487 designated existing provision as subsec. (a) and added subsec. (b).

43 USC Sec. 1615

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1615.** Withdrawal and selection of public lands; funds in lieu of acreage

##### (a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.

Craig, Southeast.

Hoonah, Southeast.

Hydaburg, Southeast.

Kake, Southeast.

Kasaan, Southeast.

Klawock, Southeast.

Saxman, Southeast.

Yakutat, Southeast.

##### (b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 18, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

(c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) (25 U.S.C. 1211), are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

(d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: Provided, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: Provided further, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: Provided further, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250) (25 U.S.C. 461 et seq.), all its right, title, and interest in the lands of the reservation

defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: Provided further, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corporation organized pursuant to this chapter, or located on Admiralty Island.

(Pub. L. 92-203, Sec. 16, Dec. 18, 1971, 85 Stat. 705; Pub. L. 94-204, Sec. 9, 10, Jan. 2, 1976, 89 Stat. 1150; Pub. L. 94-456, Sec. 1, Oct. 4, 1976, 90 Stat. 1934; Pub. L. 95-178, Sec. 1, Nov. 15, 1977, 91 Stat. 1369.)

#### REFERENCES IN TEXT

The public land laws, referred to in subsec. (a), are classified generally to this title.

The mining laws, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (a), have been defined in sections 351, 505, 530, and 541e of Title 30 to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, Sec. 1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is known as the Mineral Leasing Act and is classified generally to chapter 3A (Sec. 181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (Sec. 271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (Sec. 281 et seq.) of chapter 3A of Title 30. For complete classification of

these Acts to the Code, see Tables.

The Alaska Statehood Act, as amended, referred to in subsec. (a), is Pub. L. 85-508, July 7, 1958, 72 Stat. 239, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

Act of July 9, 1968 (82 Stat. 307), referred to in subsec. (c), is Pub. L. 90-392, July 9, 1968, 82 Stat. 307, known as the Second Supplemental Appropriation Act, 1968, which is not classified to the Code.

The United States Court of Claims, referred to in subsec. (c), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97-164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court (now United States Court of Federal Claims) that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

Act of July 13, 1970 (84 Stat. 431), referred to in subsec. (c), is Pub. L. 91-335, July 13, 1970, 84 Stat. 431, which enacted section 1211 of Title 25, Indians. For complete classification of this Act to the Code, see Tables.

Act of June 18, 1934, as amended by the Act of May 1, 1936, referred to in subsec. (d)(1), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended by act May 1, 1936, ch. 254, Sec. 1, 49 Stat. 1250, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (Sec. 461 et seq.) of chapter 14 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

Act of September 2, 1957, referred to in subsec. (d)(1), is Pub. L. 85-271, Sept. 2, 1957, 71 Stat. 596, which is not classified to the Code.

#### AMENDMENTS

1977 - Subsec. (b). Pub. L. 95-178 struck out provisions relating to allocations received by the Regional Corporation for the southeastern Alaska region under section 1613(h)(8) of this title and selection and conveyance of such allocated lands.

1976 - Subsec. (a). Pub. L. 94-456, Sec. 1(a), struck out "Klukwan, Southeast." from list of villages.

Subsec. (b). Pub. L. 94-204, Sec. 10, inserted provisions relating to the selection and conveyance of such allocation as the Regional Corporation for the southeastern Alaska region shall receive.

Subsec. (d). Pub. L. 94-456, Sec. 1(b), designated existing provisions as par. (1), substituting provision relating to authorization and direction of Secretary to withdraw lands in order that the Village Corporation may select twenty-three thousand and forty acres for provision that the lands enclosing and surrounding the village which were withdrawn by subsec. (a) are rewithdrawn to the same extent and for the same purposes as provided by said subsec. (a) for one year from January 2, 1976, during which the Village Corporation shall select an area equal to twenty-three thousand and forty acres in accordance with subsec. (b) and inserting proviso against withdrawal of such lands from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture, and added par. (2).

Pub. L. 94-204, Sec. 9, added subsec. (d).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1611, 1613, 1621, 1631, 1641 of this title.

43 USC Sec. 1616

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1616.** Joint Federal-State Land Use Planning Commission for Alaska

(a), (b) Omitted

(c) Prohibition against selection of lands from withdrawn area in event of withdrawal of utility and transportation corridor across public lands

In the event that the Secretary withdraws a utility and transportation corridor across public lands in Alaska pursuant to his existing authority, the State, the Village Corporations and the Regional Corporations shall not be permitted to select lands from the area withdrawn.

(d) Public Land Order Numbered 4582 revoked; withdrawal of unreserved public lands; classification and reclassification of lands; opening lands to appropriation; administration; contracting and other authority of Secretary not impaired by withdrawal

(1) Public Land Order Numbered 4582, 34 Federal Register 1025, as amended, is hereby revoked. For a period of ninety days after December 18, 1971, all unreserved public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining (except locations for metalliferous

minerals) and the mineral leasing laws. During this period of time the Secretary shall review the public lands in Alaska and determine whether any portion of these lands should be withdrawn under authority provided for in existing law to insure that the public interest in these lands is properly protected. Any further withdrawal shall require an affirmative act by the Secretary under his existing authority, and the Secretary is authorized to classify or reclassify any lands so withdrawn and to open such lands to appropriation under the public land laws in accord with his classifications. Withdrawals pursuant to this paragraph shall not affect the authority of the Village Corporations, the Regional Corporations, and the State to make selections and obtain patents within the areas withdrawn pursuant to section 1610 of this title.

(2)(A) The Secretary, acting under authority provided for in existing law, is directed to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, and from selection by Regional Corporations pursuant to section 1610 of this title, up to, but not to exceed, eighty million acres of unreserved public lands in the State of Alaska, including previously classified lands, which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems: Provided, That such withdrawals shall not affect the authority of the State and the Regional and Village Corporations to make selections and obtain patents within the areas withdrawn pursuant to section 1610 of this title.

(B) Lands withdrawn pursuant to paragraph (A) hereof must be withdrawn within nine months of December 18, 1971. All unreserved public lands not withdrawn under paragraph (A) or subsection (d)(1) of this section shall be available for selection by the State and for appropriation under the public land laws.

(C) Every six months, for a period of two years from December 18, 1971, the Secretary shall advise the Congress of the location, size and values of lands withdrawn pursuant to paragraph (A) and submit his recommendations with respect to such lands. Any lands withdrawn pursuant to paragraph (A) not recommended for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems at the end of the two years shall be available for selection by the State and the Regional Corporations, and for appropriations under the public land laws.

(D) Areas recommended by the Secretary pursuant to paragraph (C) shall remain withdrawn from any appropriation under the public land laws until such time as the Congress acts on the Secretary's recommendations, but not to exceed five years from the recommendation dates. The withdrawal of areas not so recommended

shall terminate at the end of the two year period.

(E) Notwithstanding any other provision of this subsection, initial identification of lands desired to be selected by the State pursuant to the Alaska Statehood Act and by the Regional Corporations pursuant to section 1611 of this title may be made within any area withdrawn pursuant to this subsection (d), but such lands shall not be tentatively approved or patented so long as the withdrawals of such areas remain in effect: Provided, That selection of lands by Village Corporations pursuant to section 1611 of this title shall not be affected by such withdrawals and such lands selected may be patented and such rights granted as authorized by this chapter. In the event Congress enacts legislation setting aside any areas withdrawn under the provisions of this subsection which the Regional Corporations or the State desired to select, then other unreserved public lands shall be made available for alternative selection by the Regional Corporations and the State. Any time periods established by law for Regional Corporations or State selections are hereby extended to the extent that delays are caused by compliance with the provisions of this subsection (2).

(3) Any lands withdrawn under this section shall be subject to administration by the Secretary under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal.

(Pub. L. 92-203, Sec. 17, Dec. 18, 1971, 85 Stat. 706; Pub. L. 94-204, Sec. 7, Jan. 2, 1976, 89 Stat. 1149.)

#### REFERENCES IN TEXT

Alaska Statehood Act, referred to in subsec. (d)(2)(A), (E), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The public land laws, referred to in subsec. (d)(1), (2)(B) to (D), are classified generally to this title.

The mining laws, referred to in subsec. (d)(1), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (d)(1), have been defined in sections 351, 505, 530, and 541e of Title 30 to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, Sec. 1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is known as the Mineral Leasing Act and is

classified generally to chapter 3A (Sec. 181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (Sec. 271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (Sec. 281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables.

#### CODIFICATION

Subsecs. (a) and (b) of this section, which related to the establishment, membership, compensation, procedures, duties and powers of the Joint Federal-State Land Use Planning Commission for Alaska and authorized the Commission to identify public easements across selected lands in Alaska, were omitted pursuant to former subsec. (a)(10) of this section which provided that the Commission was to cease to exist effective June 30, 1979.

#### AMENDMENTS

1976 - Subsec. (a)(10). Pub. L. 94-204 extended the life of the Commission from Dec. 31, 1976 to June 30, 1979, directed the submission of multiple reports, with an interim report to be submitted on or before May 30, 1976, and extended from May 30, 1976 to May 30, 1979 the date on or before which the final report shall be submitted.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1610, 1611, 1613, 1621, 1631, 1633, 1635, 1641 of this title; title 16 section 410hh-3.

43 USC Sec. 1617

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1617.** Indian allotment authority in Alaska; revocation; charging allotments on pending application against statutory acreage grant; relocation of allotment

#### (a) Revocation of authority

No Native covered by the provisions of this chapter, and no descendant of his, may hereafter avail himself of an allotment under the provisions of the Act of February 8, 1887 (24 Stat. 389), as amended and supplemented, or the Act of June 25, 1910 (36 Stat. 363). Further, the Act of May 17, 1906 (34 Stat. 197), as amended, is repealed. Notwithstanding the foregoing provisions of this

section, any application for an allotment that is pending before the Department of the Interior on December 18, 1971, may, at the option of the Native applicant, be approved and a patent issued in accordance with said 1887, 1910, or 1906 Act, as the case may be, in which event the Native shall not be eligible for a patent under section 1613(h)(5) of this title.

(b) Charging allotment against statutory grant

Any allotments approved pursuant to this section during the four years following December 18, 1971, shall be charged against the two million acre grant provided for in section 1613(h) of this title.

(c) Relocation of allotment

(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of October 14, 1992, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if -

(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (commonly referred to as the "Alaska Statehood Act"), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.

(Pub. L. 92-203, Sec. 18, Dec. 18, 1971, 85 Stat. 710; Pub. L. 102-415, Sec. 3, Oct. 14, 1992, 106 Stat. 2112.)

#### REFERENCES IN TEXT

Act of February 8, 1887 (24 Stat. 389), referred to in subsec. (a), is popularly known as the Indian General Allotment Act. For complete classification of this Act to the Code, see Short Title note set out under section 331 of Title 25, Indians, and Tables.

Act of June 25, 1910 (36 Stat. 363), referred to in subsec. (a), probably means act June 25, 1910, ch. 431, 36 Stat. 855, which enacted section 148 of this title, sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure, sections 47, 93, 151, 191, 202, 312, 331, 333, 336, 337, 344a, 351, 352, 353, 372, 373, 403, 406, 407, 408 of Title 25, sections 6a-1 and 16a of Title 41, Public Contracts. Sections 104 and 107 of former Title 18 were repealed in the general revision of that title by act June 25, 1948, ch. 645, 62 Stat. 683, and were reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

Act of May 17, 1906 (34 Stat. 197), as amended, referred to in subsec. (a), is act May 17, 1906, ch. 2469, 34 Stat. 197, which enacted sections 270-1, 270-2, and 270-3 of this title, and was repealed by Pub. L. 92-203, Sec. 18(a), Dec. 18, 1971, 85 Stat. 710. For complete classification of this Act to the Code, see Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (c)(2)(A), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

Section 6 of the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (commonly referred to as the "Alaska Statehood Act"), referred to in subsec. (c)(2)(B), is section 6 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note

preceding section 21 of Title 48, Territories and Insular Possessions.

#### AMENDMENTS

1992 - Subsec. (c). Pub. L. 102-415 added subsec. (c).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1613 of this title.

43 USC Sec. 1618

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1618.** Reservations; revocation; excepted reserve; acquisition of title to surface and subsurface estates in reserve; election of Village Corporations

(a) Notwithstanding any other provision of law, and except where inconsistent with the provisions of this chapter, the various reserves set aside by legislation or by Executive or Secretarial Order for Native use or for administration of Native affairs, including those created under section 497 of title 25, are hereby revoked subject to any valid existing rights of non-Natives. This section shall not apply to the Annette Island Reserve established by section 495 of title 25 and no person enrolled in the Metlakatla Indian community of the Annette Island Reserve shall be eligible for benefits under this chapter.

(b) Notwithstanding any other provision of law or of this chapter, any Village Corporation or Corporations may elect within two years to acquire title to the surface and subsurface estates in any reserve set aside for the use or benefit of its stockholders or members prior to December 18, 1971. If two or more villages are located on such reserve, the election must be made by all of the members or stockholders of the Village Corporations concerned. In such event, the Secretary shall convey the land to the Village Corporation or Corporations, subject to valid existing rights as provided in section 1613(g) of this title, and the Village Corporation shall not be eligible for any other land selections under this chapter or to any distribution of Regional Corporations funds pursuant to section 1606 of this title, and the enrolled residents of the Village Corporation shall not be eligible to receive Regional Corporation stock.

(Pub. L. 92-203, Sec. 19, Dec. 18, 1971, 85 Stat. 710.)

## GRANTS TO NATIVE GROUP CORPORATIONS FOR PLANNING, DEVELOPMENT, AND OTHER PURPOSES

Pub. L. 96-487, title XIV, Sec. 1413, Dec. 2, 1980, 94 Stat. 2498, provided that: "The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act (section 1613(h)(2) of this title) and finally certified as a Native Group, an amount not more than \$100,000 or less than \$50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning, development, and other purposes for which the Native Group Corporations are organized under the Settlement Act (this chapter)."

## GRANTS TO VILLAGE CORPORATIONS FOR PLANNING, DEVELOPMENT AND OTHER PURPOSES

Pub. L. 94-204, Sec. 14, Jan. 2, 1976, 89 Stat. 1154, provided that:

"(a) The Secretary shall pay, by grant, \$250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act (section 1613(h)(3) of this title).

"(b) The Secretary shall pay, by grant, \$100,000 to each of the following Village Corporations:

- "(1) Arctic Village;
- "(2) Elim;
- "(3) Gambell;
- "(4) Savoonga;
- "(5) Tetlin; and
- "(6) Venetie.

"(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act (this chapter).

"(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of \$1,600,000 in fiscal year 1976."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1615, 1627, 1635, 1641 of this title; title 16 section 3102.

43 USC Sec. 1619

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1619. Attorney and consultant fees**

(a) Holding moneys in Fund for authorized payments

The Secretary of the Treasury shall hold in the Alaska Native Fund, from the appropriation made pursuant to section 1605 of this title for the second fiscal year, moneys sufficient to make the payments authorized by this section.

(b) Claims; submission

A claim for attorney and consultant fees and out-of-pocket expenses may be submitted to the Chief Commissioner of the United States Court of Claims for services rendered before December 18, 1971, to any Native tribe, band, group, village, or association in connection with:

(1) the preparation of this chapter and previously proposed Federal legislation to settle Native claims based on aboriginal title, and

(2) the actual prosecution pursuant to an authorized contract or a cause of action based upon a claim pending before any Federal or State Court or the Indians Claims Commission that is dismissed pursuant to this chapter.

(c) Final date for filing of claims; form; information

A claim under this section must be filed with the clerk of the Court of Claims within one year from December 18, 1971, and shall be in such form and contain such information as the Chief Commissioner shall prescribe. Claims not so filed shall be forever barred.

(d) Rules for receipt, determination, and settlement of claims

The Chief Commissioner or his delegate is authorized to receive, determine, and settle such claims in accordance with the following rules:

(1) No claim shall be allowed if the claimant has otherwise been reimbursed.

(2) The amount allowed for services shall be based on the nature of the service rendered, the time and labor required, the need for providing the service, whether the service was intended to be a voluntary public service or compensable, the existence of a bona fide attorney-client relationship with an identified client, and the relationship of the service rendered to the enactment of proposed legislation. The amount allowed shall not be controlled by any hourly charge customarily charged by the claimant.

(3) The amount allowed for out-of-pocket expenses shall not include office overhead, and shall be limited to expenses that were necessary, reasonable, unreimbursed and actually incurred.

(4) The amounts allowed for services rendered shall not exceed in the aggregate \$2,000,000, of which not more than \$100,000 shall be

available for the payment of consultants' fees. If the approved claims exceed the aggregate amounts allowable, the Chief Commissioner shall authorize payment of the claims on a pro rata basis.

(5) Upon the filing of a claim, the clerk of the Court of Claims shall forward a copy of such claims to the individuals or entities on whose behalf services were rendered or fees and expenses were allegedly incurred, as shown by the pleadings, to the Attorney General of the United States, to the Attorney General of the State of Alaska, to the Secretary of the Interior, and to any other person who appears to have an interest in the claim, and shall give such persons ninety days within which to file an answer contesting the claim.

(6) The Chief Commissioner may designate a trial commissioner for any claim made under this section and a panel of three commissioners of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding commissioner of the panel.

(7) Proceedings in all claims shall be pursuant to rules and orders prescribed for the purpose by the Chief Commissioner who is hereby authorized and directed to require the application of the pertinent rules of practice of the Court of Claims insofar as feasible. Claimants may appear before a trial commissioner in person or by attorney, and may produce evidence and examine witnesses. In the discretion of the Chief Commissioner or his designate, hearings may be held in the localities where the claimants reside if convenience so demands.

(8) Each trial commissioner and each review panel shall have authority to do and perform any acts which may be necessary or proper for the efficient performance of their duties, and shall have the power of subpoena, the power to order audit of books and records, and the power to administer oaths and affirmations. Any sanction authorized by the rules of practice of the Court of Claims, except contempt, may be imposed on any claimant, witness, or attorney by the trial commissioner, review panel, or Chief Commissioner. None of the rules, regulations, rulings, findings, or conclusions authorized by this section shall be subject to judicial review.

(9) The findings and conclusions of the trial commissioner shall be submitted by him, together with the record in the case, to the review panel of commissioners for review by it pursuant to such rules as may be provided for the purpose, which shall include provision for submitting the decision of the trial commissioner to the claimant and any party contesting the claim for consideration, exception, and argument before the panel. The panel, by majority vote, shall adopt or modify the findings or the conclusions of the

trial commissioner.

(10) The Court of Claims is hereby authorized and directed, under such conditions as it may prescribe, to provide the facilities and services of the office of the clerk of the court for the filing, processing, hearing, and dispatch of claims made pursuant to this section and to include within its annual appropriations the costs thereof and other costs of administration, including (but without limitation to the items herein listed) the salaries and traveling expenses of its auditors and the commissioners serving as trial commissioners and panel members, mailing and service of process, necessary physical facilities, equipment, and supplies, and personnel (including secretaries, reporters, auditors, and law clerks).

(e) Report to Congress; payment of claims; interest restriction

The Chief Commissioner shall certify to the Secretary of the Treasury, and report to the Congress, the amount of each claim allowed and the name and address of the claimant. The Secretary of the Treasury shall pay to such person from the Alaska Native Fund the amounts certified. No award under this section shall bear interest.

(f) Contract restriction; penalty

(1) No remuneration on account of any services or expenses for which a claim is made or could be made pursuant to this section shall be received by any person for such services and expenses in addition to the amount paid in accordance with this section, and any contract or agreement to the contrary shall be void.

(2) Any person who receives, and any corporation or association official who pays, on account of such services and expenses, any remuneration in addition to the amount allowed in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than twelve months, or both.

(g) Claims for costs in performance of certain services:

submission, form, information, reasonableness, pro rata reductions; report to Congress; payment of claims; interest restriction

A claim for actual costs incurred in filing protests, preserving land claims, advancing land claims settlement legislation, and presenting testimony to the Congress on proposed Native land claims may be submitted to the Chief Commissioner of the Court of Claims by any bona fide association of Natives. The claim must be submitted within six months from December 18, 1971, and shall be in such form and contain such information as the Chief Commissioner shall prescribe. The Chief Commissioner shall allow such amounts as he determines are reasonable, but he shall allow no amount for attorney and consultant fees and expenses which shall be

compensable solely under subsection (b) through (e) of this section. If approved claims under this subsection aggregate more than \$600,000, each claim shall be reduced on a pro rata basis. The Chief Commissioner shall certify to the Secretary of the Treasury, and report to the Congress, the amount of each claim allowed and the name and address of the claimant. The Secretary of the Treasury shall pay to such claimant from the Alaska Native Fund the amount certified. No award under this subsection shall bear interest.

(Pub. L. 92-203, Sec. 20, Dec. 18, 1971, 85 Stat. 710.)

#### REFERENCES IN TEXT

The United States Court of Claims, referred to in subsecs. (b), (c), (d)(5), (7), (8), (10), and (g), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97-164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court (now United States Court of Federal Claims) that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

#### CHANGE OF NAME

"Chief Commissioner" and "trial commissioner" of the Court of Claims redesignated "chief of the trial division" and "trial judge", respectively, by General Order No. 2 of 1973 of United States Court of Claims, issued August 1, 1973. Redesignation applicable in all proceedings other than Congressional references cases.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1605 of this title.

43 USC Sec. 1620

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1620.** Taxation

(a) Fund revenues exemption; investment income taxable

Revenues originating from the Alaska Native Fund shall not be subject to any form of Federal, State, or local taxation at the time of receipt by a Regional Corporation, Village Corporation, or

individual Native through dividend distributions (even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources) or in any other manner. This exemption shall not apply to income from the investment of such revenues.

(b) Shares of stock exemption

The receipt of shares of stock in the Regional or Village Corporations by or on behalf of any Native shall not be subject to any form of Federal, State or local taxation.

(c) Land or land interests exemption; basis for sale or other disposition, adjustment; basis for interest in mine, well, other natural deposit, or block of timber, adjustment

The receipt of land or any interest therein pursuant to this chapter or of cash in order to equalize the values of properties exchanged pursuant to section 1621(f) of this title shall not be subject to any form of Federal, State, or local taxation. The basis for determining gain or loss from the sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt, adjusted as provided in section 1016 of title 26, as amended: Provided, however, That the basis of any such land or interest therein attributable to an interest in a mine, well, other natural deposit, or block of timber shall be not less than the fair value of such mine, well, natural deposit, or block of timber (or such interest therein as the Secretary shall convey) at the time of the first commercial development thereof, adjusted as provided in section 1016 of title 26. For purposes of this subsection, the time of receipt of land or any interest therein shall be the time of the conveyance by the Secretary of such land or interest (whether by interim conveyance or patent).

(d) Real property interests; exemption period for conveyance of interests not developed or leased or interests used solely for exploration, interests taxable; derivative revenues taxable; exchanges; simultaneous exchanges

(1) Real property interests conveyed, pursuant to this chapter, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 1613(h)(3) of this title which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation:

Provided, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: Provided further, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 1613(h)(3) of this title in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this chapter and shall be exempt from taxation as if conveyed pursuant to this chapter, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to this subsection, the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange.

(e) Public lands status of real property interests exempt from real estate taxes for purposes of Federal highway and education laws; Federal fire protection services for real property interests without cost

Real property interests conveyed pursuant to this chapter to a Native individual, Native group, corporation organized under section 1613(h)(3) of this title, or Village or Regional Corporation shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23, as amended and supplemented, for the purpose of the Johnson-O'Malley Act of April 16, 1934, as amended (25 U.S.C. 452), and for the purpose of Public Laws 815 and 874, 81st Congress (64 Stat. 967, 1100). So long as there are no

substantial revenues from such lands they shall continue to receive wildland fire protection services from the United States at no cost.

(f) Stocks of Regional and Village Corporations exempt from estate taxes; period of exemption

Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 1606 of this title, including the right to receive distributions under subsection 1606(j) of this title, and stock of any Village Corporation organized pursuant to section 1607 of this title shall not be includable in the gross estate of a decedent under sections 2031 and 2033, or any successor provisions, of title 26.

(g) Resource information or analysis; professional or technical services

In the case of any Native Corporation established pursuant to this chapter, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of -

(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this chapter;

(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this chapter, including, but not limited to, services in connection with exploration on such lands for oil, gas, or other minerals; and

(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): Provided, That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this chapter or to any subsidiary thereof.

This subsection shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) of this section all rents, royalties, profits,

and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 1611 and 1613 of this title shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(h) Date of incorporation as date of trade or business; ordinary and necessary expenses

(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this chapter shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this chapter in connection with the selection or conveyance of lands pursuant to this chapter, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this chapter, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation.

(i) Personal Holding Company Act exemption

No Corporation created pursuant to this chapter shall be considered to be a personal holding company within the meaning of section 542(a) of title 26 prior to January 1, 1992.

(j) Shareholder homesites

A real property interest distributed by a Native Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this chapter: Provided, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 1629c of this title: Provided further, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Native Corporation deems appropriate: Provided further, That the land conveyed does not exceed one and one-half acres: Provided further, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.

(Pub. L. 92-203, Sec. 21, Dec. 18, 1971, 85 Stat. 713; Pub. L. 94-204, Sec. 13, Jan. 2, 1976, 89 Stat. 1154; Pub. L. 95-600, title V, Sec. 541, Nov. 6, 1978, 92 Stat. 2887; Pub. L. 96-487, title IX, Sec. 904, title XIV, Sec. 1407-1409, Dec. 2, 1980, 94 Stat. 2434, 2495, 2496; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-241, Sec. 12(b), Feb. 3, 1988, 101 Stat. 1810; Pub. L. 102-415, Sec. 5, Oct. 14, 1992, 106 Stat. 2113.)

#### REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsec. (d)(1), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

The Johnson-O'Malley Act of April 16, 1934, as amended (25 U.S.C. 452), referred to in subsec. (e), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, which is classified to sections 452 et seq., of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

Public Law 815, 81st Congress (64 Stat. 967), referred to in subsec. (e), is act Sept. 23, 1950, ch. 995, as amended generally by Pub. L. 85-620, title I, Sec. 101, Aug. 12, 1958, 72 Stat. 548, which was classified generally to chapter 19 (Sec. 631 et seq.) of Title 20, Education, prior to repeal by Pub. L. 103-382, title III, Sec. 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Public Law 874, 81st Congress (64 Stat. 1100), referred to in subsec. (e), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, popularly known as the Educational Agencies Financial Aid Act, which was classified generally to chapter 13 (Sec. 236 et seq.) of Title 20, prior to repeal by Pub. L. 103-382, title III, Sec. 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1992 - Subsec. (j). Pub. L. 102-415 struck out "prior to December 18, 1991," after "A real property interest distributed" and substituted "Provided, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 1629c of this title: Provided further, That" for "Provided, That".

1988 - Subsec. (a). Pub. L. 100-241, Sec. 12(b)(1), inserted "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)"

after "distributions".

Subsec. (j). Pub. L. 100-241, Sec. 12(b)(2), (3), substituted "Native Corporation" for "Village Corporation" in two places and "That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder." for "That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority."

1986 - Subsecs. (c), (i). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1980 - Subsec. (c). Pub. L. 96-487, Sec. 1408, inserted provision requiring that fair value of such land or interest in land at time of receipt be adjusted as provided in section 1016 of title 26 and proviso defining the basis of any such land attributable to an interest in a mine, well, other natural deposit, or block of timber.

Subsec. (d). Pub. L. 96-487, Sec. 904, designated existing provision as par. (1), substituted "Regional Corporation or corporation established pursuant to section 1613(h)(3) of this title" for "Regional Corporation", "third parties or which are used solely for the purposes of exploration shall" for "third parties shall", "from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation" for "after December 18, 1971", and "any portion of such interest" for "leased or developed real property" and inserted "which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed" after "laws of the State", and added par. (2).

Subsec. (e). Pub. L. 96-487, Sec. 1409, substituted "Native Group, corporation organized under section 1613(h)(3) of this title, or Village" for "Native Group, or Village", "(64 Stat. 967, 1100). So long as there are no substantial" for "(64 Stat. 967, 1100), and so long as there are also no substantial", and "such lands they shall continue to receive wildland fire" for

"such lands, continue to receive forest fire".

Subsec. (j). Pub. L. 96-487, Sec. 1407, added subsec. (j).

1978 - Subsecs. (g) to (i). Pub. L. 95-600 added subsecs. (g) to (i).

1976 - Subsec. (f). Pub. L. 94-204 added subsec. (f).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1636 of this title.

43 USC Sec. 1621

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1621.** Miscellaneous provisions

(a) Contract restrictions; percentage fee; enforcement; liens, executions, or judgments

None of the revenues granted by section 1605 of this title, and none of the lands granted by this chapter to the Regional and Village Corporation and to Native groups and individuals shall be subject to any contract which is based on a percentage fee of the value of all or some portion of the settlement granted by this chapter. Any such contract shall not be enforceable against any Native as defined by this chapter or any Regional or Village Corporation and the revenues and lands granted by this chapter shall not be subject to lien, execution or judgment to fulfill such a contract.

(b) Patents for homesteads, headquarters sites, trade and manufacturing sites, or small tract sites; use and occupancy protection

The Secretary is directed to promptly issue patents to all persons who have made a lawful entry on the public lands in compliance with the public land laws for the purpose of gaining title to homesteads, headquarters sites, trade and manufacturing sites, or small tract sites (43 U.S.C. 682 (FOOTNOTE 1) ), and who have fulfilled all requirements of the law prerequisite to obtaining a patent. Any person who has made a lawful entry prior to August 31, 1971, for any of the foregoing purposes shall be protected in his right of use and occupancy until all the requirements of law for a patent have been met even though the lands involved have been reserved or withdrawn in accordance with Public Land Order 4582, as amended, or the withdrawal provisions of this chapter: Provided, That occupancy must have been maintained in accordance with the appropriate public land law: Provided further,

That any person who entered on public lands in violation of Public Land Order 4582, as amended, shall gain no rights.

(FOOTNOTE 1) So in original. See References in Text note below.

(c) Mining claims; possessory rights, protection

(1) On any lands conveyed to Village and Regional Corporations, any person who prior to August 31, 1971, initiated a valid mining claim or location under the general mining laws and recorded notice of said location with the appropriate State or local office shall be protected in his possessory rights, if all requirements of the general mining laws are complied with, for a period of five years and may, if all requirements of the general mining laws are complied with, proceed to patent.

(2)(A)(i) Subject to valid existing rights, an unpatented mining claim or location, or portion thereof, under the general mining laws that is situated outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and within the exterior boundaries of lands validly selected by a Village or Regional Corporation pursuant to section 1611 of this title or section 1613(h) of this title and that lapses, is abandoned, relinquished, or terminated, declared null and void, or otherwise expires, after August 31, 1971, because of failure to comply with requirements of the general mining laws (including the mining laws of the State of Alaska), is deemed to be null and void for the purposes of this paragraph. The Secretary shall promptly determine the validity of such claims or locations within conservation system units.

(ii) Subject to valid existing rights and to subparagraph (B), the lands outside a conservation system unit included in a mining claim or location described in clause (i) shall -

(I) be considered part of the lands selected pursuant to sections 1611 of this title and 1613(h) of this title by the Village or Regional Corporation described in clause (i); and

(II) be eligible for conveyance pursuant to this chapter unless specifically identified and excluded from an initial selection application.

(iii) Subject to valid existing rights and to subparagraph (B), any portion outside a conservation system unit of a mining claim or location described in clause (i) that is situated within the exterior boundaries of lands conveyed prior to October 14, 1992, from selections under section 1611 or section 1613(h) of this title shall be conveyed pursuant to this chapter.

(B) No lands shall be conveyed pursuant to this subsection if the conveyance would result in the receipt of title to lands in excess of an acreage entitlement under this chapter.

(3) This section shall apply to lands conveyed by interim conveyance or patent to a regional corporation pursuant to this

chapter which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to November 2, 1995. Effective on November 2, 1995, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 1613(g) of this title, shall transfer to the regional corporation administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 1744 of this title, except that any filings that would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made with the appropriate regional corporation. The validity of any such mining claim or claims may be contested by the regional corporation, in place of the United States. All contest proceedings and appeals by the mining claimants of adverse decisions made by the regional corporation shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after November 2, 1995, shall be remitted to the regional corporation subject to distribution pursuant to section 1606(i) of this title, except that in the event that the mining claim or claims are not totally within the lands conveyed to the regional corporation, the regional corporation shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim so conveyed.

(d) Purchase restrictions for personnel inapplicable to chapter

The provisions of section 11 of this title shall not apply to any land grants or other rights granted under this chapter.

(e) National Wildlife Refuge System; replacement lands

If land within the National Wildlife Refuge System is selected by a Village Corporation pursuant to the provisions of this chapter, the secretary shall add to the Refuge System other public lands in the State to replace the lands selected by the Village Corporation.

(f) Land exchanges

The Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including Native selection rights, with the corporations organized by Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in this chapter, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency for the purpose of effecting land consolidations or to facilitate the

management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: Provided, That when the parties agree to an exchange and the appropriate Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(g) National Wildlife Refuge System lands subject of patents;  
Federal reservation of first refusal rights; provision in patents for continuing application of laws and regulations governing Refuge

If a patent is issued to any Village Corporation for land in the National Wildlife Refuge System, the patent shall reserve to the United States the right of first refusal if the land is ever sold by the Village Corporation. Notwithstanding any other provision of this chapter, every patent issued by the Secretary pursuant to this chapter - which covers lands lying within the boundaries of a National Wildlife Refuge on December 18, 1971, shall contain a provision that such lands remain subject to the laws and regulations governing use and development of such Refuge.

(h) Withdrawals of public lands; termination date

(1) All withdrawals made under this chapter, except as otherwise provided in this subsection, shall terminate within four years of December 18, 1971: Provided, That any lands selected by Village or Regional Corporations or by a Native group under section 1611 of this title shall remain withdrawn until conveyed pursuant to section 1613 of this title.

(2) The withdrawal of lands made by section 1610(a)(2) and section 1615 of this title shall terminate three years from December 18, 1971.

(3) The provisions of this section shall not apply to any withdrawals made under section 1616 of this title.

(4) The Secretary is authorized to terminate any withdrawal made by or pursuant to this chapter whenever he determines that the withdrawal is no longer necessary to accomplish the purposes of this chapter.

(i) Administration of withdrawn lands; contracting and other authority of Secretaries not impaired by withdrawal

Prior to a conveyance pursuant to section 1613 of this title, lands withdrawn by or pursuant to sections 1610, 1613, and 1615 of this title shall be subject to administration by the Secretary, or by the Secretary of Agriculture in the case of National Forest lands, under applicable laws and regulations, and their authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal.

(j) Interim conveyances and underselections

(1) Where lands to be conveyed to a Native, Native Corporation, or Native group pursuant to this chapter as amended and supplemented have not been surveyed, the same may be conveyed by the issuance of an "interim conveyance" to the party entitled to the lands. Subject to valid existing rights and such conditions and reservations authorized by law as are imposed, the force and effect of such an interim conveyance shall be to convey to and vest in the recipient exactly the same right, title, and interest in and to the lands as the recipient would have received had he been issued a patent by the United States. Upon survey of lands covered by an interim conveyance a patent thereto shall be issued to the recipient. The boundaries of the lands as defined and conveyed by the interim conveyance shall not be altered but may then be redescribed, if need be, in reference to the plat of survey. The Secretary shall make appropriate adjustments to insure that the recipient receives his full entitlement. Where the term "patent," or a derivative thereof, is used in this chapter unless the context precludes such construction, it shall be deemed to include "interim conveyance," and the conveyances of land to Natives and Native Corporations provided for this chapter shall be as fully effectuated by the issuance of interim conveyances as by the issuance of patents.

(2) Where lands selected and conveyed, or to be conveyed to a Village Corporation are insufficient to fulfill the Corporation's entitlement under section 1611(b), 1613(a), 1615(b), or 1615(d) of this title, the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to section 1610(a)(1), 1610(a)(3), 1615(a), or 1615(d) of this title. Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to section 1616(d) of this title. Any subsequent selection by the Village Corporation shall be in the manner provided in this chapter for such original selections.

(k) National forest land patents; conditions

Any patents to lands under this chapter which are located within the boundaries of a national forest shall contain such conditions as the Secretary deems necessary to assure that:

(1) the sale of any timber from such lands shall, for a period of five years, be subject to the same restrictions relating to

the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and

(2) such lands are managed under the principle of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands for a period of twelve years.

(l) Land selection limitation; proximity to home rule or first class city and Ketchikan

Notwithstanding any provision of this chapter, no Village or Regional Corporation shall select lands which are within two miles from the boundary, as it exists on December 18, 1971, of any home rule or first class city (excluding boroughs) or which are within six miles from the boundary of Ketchikan.

(Pub. L. 92-203, Sec. 22, Dec. 18, 1971, 85 Stat. 713; Pub. L. 94-204, Sec. 17, Jan. 2, 1976, 89 Stat. 1156; Pub. L. 96-487, title XIV, Sec. 1410, Dec. 2, 1980, 94 Stat. 2496; Pub. L. 102-415, Sec. 14, Oct. 14, 1992, 106 Stat. 2121; Pub. L. 104-42, title I, Sec. 102, Nov. 2, 1995, 109 Stat. 353.)

#### REFERENCES IN TEXT

The public land laws, referred to in subsec. (b), are classified generally to this title.

Section 682 of this title, referred to in subsec. (b), probably means section 682a of this title which was repealed by Pub. L. 94-579, title VII, Sec. 702, Oct. 21, 1976, 90 Stat. 2787.

The general mining laws, referred to in subsec. (c), are classified generally to Title 30, Mineral Lands and Mining.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (c)(2)(A)(i), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

Section 6(i) of the Alaska Statehood Act, referred to in subsec. (f), is section 6(i) of Pub. L. 85-508, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

#### AMENDMENTS

1995 - Subsec. (c)(3). Pub. L. 104-42 added par. (3).

1992 - Subsec. (c). Pub. L. 102-415 designated existing provisions as par. (1) and added par. (2).

1980 - Subsec. (j). Pub. L. 96-487 substituted provision authorizing Secretary to convey lands by interim conveyance when

the lands have not been surveyed, upon survey to issue a patent and redescribe the lands if necessary, and, where lands selected and conveyed, or to be conveyed, to a Village Corporation are insufficient to fulfill the Corporation's entitlement, to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation 90 days from receipt of notice to select from the lands withdrawn the land it desires to fulfill its entitlement for provision authorizing the Secretary, in any area of Alaska for which protraction diagrams do not exist, which does not conform to the United States Land Survey System, or which has not been adequately surveyed to permit selection, to take such actions as are necessary to accomplish the purposes of this chapter.

1976 - Subsec. (f). Pub. L. 94-204 authorized State of Alaska to make direct exchanges of land between it and Native Corporations, authorized State to transfer mineral interests, notwithstanding section 6(i) of the Alaska Statehood Act, to Federal agencies in such exchanges, and authorized exchanges on a basis other than equal value, by agreement of the parties or if deemed in the public interest.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1610, 1620, 1621, 1631, 1633, 1634, 1641 of this title.

43 USC Sec. 1622

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1622.** Annual reports to Congress until 1984; submission in 1985 of report of status of Natives, summary of actions taken, and recommendations

The Secretary shall submit to the Congress annual reports on implementation of this chapter. Such reports shall be filed by the Secretary annually until 1984. At the beginning of the first session of Congress in 1985 the Secretary shall submit, through the President, a report of the status of the Natives and Native groups in Alaska, and a summary of actions taken under this chapter, together with such recommendations as may be appropriate.

(Pub. L. 92-203, Sec. 23, Dec. 18, 1971, 85 Stat. 715.)

43 USC Sec. 1623

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1623.** Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 92-203, Sec. 24, Dec. 18, 1971, 85 Stat. 715.)

43 USC Sec. 1624

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1624.** Regulations; issuance; publication in Federal Register

The Secretary is authorized to issue and publish in the Federal Register, pursuant to subchapter II of chapter 5 of title 5, such regulations as may be necessary to carry out the purposes of this chapter.

(Pub. L. 92-203, Sec. 25, Dec. 18, 1971, 85 Stat. 715.)

CODIFICATION

"Subchapter II of chapter 5 of title 5" substituted for "the Administrative Procedure Act" on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

43 USC Sec. 1625

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1625.** Securities laws exemption

(a) Laws; termination date of exempt status

A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789) (15

U.S.C. 80a-1 et seq.), the Securities Act of 1933 (48 Stat. 74) (15 U.S.C. 77a et seq.), and the Securities Exchange Act of 1934 (48 Stat. 881) (15 U.S.C. 78a et seq.) until the earlier of the day after -

(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where -

(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

(B) the shares are issued to persons or entities other than -

(i) individuals who held shares in the corporation on February 3, 1988;

(ii) Natives;

(iii) descendants of Natives;

(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 1606(h)(2) of this title;

(v) Settlement Trusts; or

(vi) entities established for the sole benefit of Natives or descendants of Natives; or

(2) the date on which alienability restrictions are terminated;

or

(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(b) Status of Native Corporations after termination date

No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) of this section after any of the dates described in subsection (a) of this section.

(c) Annual report to shareholders; shareholders of record

(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a) of this section, holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act (15 U.S.C. 78l(g)).

(d) Wholly owned subsidiaries; Settlement Trusts; voluntary registration as Investment Company

(1) Notwithstanding any other provision of law, prior to January

1, 2001, the provisions of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 per centum of the equity of the subsidiary.

(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntarily register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.

(Pub. L. 92-203, Sec. 28, as added Pub. L. 94-204, Sec. 3, Jan. 2, 1976, 89 Stat. 1147; amended Pub. L. 100-241, Sec. 14, Feb. 3, 1988, 101 Stat. 1811.)

#### REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsecs. (a) and (d), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (Sec. 80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Securities Act of 1933 (48 Stat. 74), referred to in subsec. (a), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (Sec. 77a et seq.) of chapter 2A of Title 15. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsecs. (a) and (c), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (Sec. 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

#### AMENDMENTS

1988 - Pub. L. 100-241 amended section generally. Prior to amendment, section read as follows: "Any corporation organized pursuant to this chapter shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789) (15 U.S.C. 80a-1 et seq.), the Securities Act of 1933 (48 Stat. 74) (15 U.S.C. 77a et seq.), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended (15 U.S.C. 78a et seq.), through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the

provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act."

CONSTRUCTION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT  
WITH PUB. L. 94-204

Section 18 of Pub. L. 94-204 provided that: "Except as specifically provided in this Act (enacting this section and sections 1626 and 1627 of this title, amending sections 1615, 1616, 1620 and 1621 of this title, and enacting provisions set out as notes under this section and sections 1604, 1605, 1611, 1613, and 1618 of this title), (i) the provisions of the Settlement Act (this chapter) are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions."

43 USC Sec. 1626

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1626.** Relation to other programs

(a) Continuing availability of otherwise available governmental programs

The payments and grants authorized under this chapter constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

(b) Food stamp program

Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended (7 U.S.C. 2011 et seq.), in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under this chapter shall be disregarded.

(c) Eligibility for need-based Federal programs

In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 1602(r) of this title) to -

- (1) participate in the Food Stamp Program,
- (2) receive aid, assistance, or benefits, based on need, under

the Social Security Act (42 U.S.C. 301 et seq.), or

(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program, none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

(A) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per annum;

(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

(C) a partnership interest;

(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

(E) an interest in a settlement trust.

(d) Federal Indian programs

Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

(e) Minority and economically disadvantaged status

(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both -

(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

(3) No provision of this subsection shall -

(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraphs (1) and (2), or

(B) supersede any such less restrictive standards in existence

on February 3, 1988.

(f) Omitted

(g) Civil Rights Act of 1964

For the purposes of implementation of the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.), a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class of entities excluded from the definition of "employer" by section 701(b)(1) of Public Law 88-352 (78 Stat. 253), as amended (42 U.S.C. 2000e(b)(1)), or successor statutes.

(Pub. L. 92-203, Sec. 29, as added Pub. L. 94-204, Sec. 4, Jan. 2, 1976, 89 Stat. 1147; amended Pub. L. 100-241, Sec. 15, Feb. 3, 1988, 101 Stat. 1812; Pub. L. 102-415, Sec. 10, 11, Oct. 14, 1992, 106 Stat. 2115.)

#### REFERENCES IN TEXT

The Food Stamp Act of 1964 (78 Stat. 703), as amended, referred to in subsec. (b), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, known as the Food Stamp Act of 1977, which is classified generally to chapter 51 (Sec. 2011 et seq.) of Title 7, Agriculture. Section 5(a) of such Act is classified section 2014(a) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in subsec. (c)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (Sec. 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (g), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (Sec. 2000a et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

#### CODIFICATION

Subsec. (f) amended section 1702(3), (4) of Title 30, Mineral Lands and Mining, and provided for effective date of such amendment.

#### AMENDMENTS

1992 - Subsec. (e)(1), (2). Pub. L. 102-415, Sec. 10, inserted "and economically disadvantaged" after "minority".

Subsec. (g). Pub. L. 102-415, Sec. 11, substituted "of entities excluded from the definition of 'employer' by" for "defined in" and "section 701(b)(1)" for "section 701(b)".

1988 - Subsecs. (c) to (g). Pub. L. 100-241 added subsecs. (c) to (g).

43 USC Sec. 1627

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1627.** Merger of Native corporations

(a) Applicability of State law

Notwithstanding any provision of this chapter, any corporation created pursuant to section 1606(d), 1607(a), 1613(h)(2), or 1613(h)(3) of this title within any of the twelve regions of Alaska, as established by section 1606(a) of this title, may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 1606(d), 1607(a), 1613(h)(2), or 1613(h)(3) of this title.

(b) Terms and conditions of merger; rights of dissenting

shareholders; rights and liabilities of successor corporation

Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after January 2, 1976: Provided, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this chapter effected while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.. (FOOTNOTE 1) Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this chapter, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and

local taxation, and shall be subject to all the restrictions and obligations of this chapter as are applicable to the corporations and shareholders which and who participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: Provided, That, where a Village Corporation organized pursuant to section 1618(b) of this title merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 1605(c), 1606(m), 1611(b), 1613(h)(8), and 1606(i) of this title.

(FOOTNOTE 1) So in original.

(c) Alteration or elimination of dividend rights

Notwithstanding the provisions of section 1606(j) or (m) of this title, in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 1606(j) or (m) of this title. In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 1606(j) or (m) of this title as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

(d) Approval of merger or consolidation by shareholders

Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

(e) Conveyance of right to withhold consent to mineral exploration, development, etc., as part of merger or consolidation

The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 1613(f) of this title to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.

(Pub. L. 92-203, Sec. 30, as added Pub. L. 94-204, Sec. 6, Jan. 2,

1976, 89 Stat. 1148; amended Pub. L. 100-241, Sec. 12(c), Feb. 3, 1988, 101 Stat. 1810.)

#### AMENDMENTS

1988 - Subsec. (b). Pub. L. 100-241 substituted "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions." for "prior to December 19, 1991".

43 USC Sec. 1628

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1628.** Assignments by Regional Corporations of rights to receive payments from Fund

(a) Recognition by Secretary; scope of recognition

Notwithstanding the provision of section 3727 of title 31, the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 1606 of this title.

(b) Nonrecognition by Secretary

The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) Claims against Secretary by stockholders of Regional or Village Corporation for recognition of assignment

No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

(Pub. L. 92-203, Sec. 31, as added Pub. L. 95-178, Sec. 4, Nov. 15, 1977, 91 Stat. 1370.)

#### CODIFICATION

In subsec. (a), "section 3727 of title 31" substituted for "section 3477 of the Revised Statutes, as amended (31 U.S.C. 203)" on authority of Pub. L. 97-258, Sec. 4(b), Sept. 13, 1982,

96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

43 USC Sec. 1629

01/26/98

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1629.** Cape Krusenstern National Monument land exchange between United States and NANA Regional Corporation, Inc.

(a) Definitions

For purposes of this section the following terms shall have the following meanings:

(1) the term "The Agreement" or "Agreement" means the agreement entitled "Terms and Conditions Governing Legislative Land Consolidation and Exchange between NANA Regional Corporation, Inc., and the United States" executed by the Secretary of the Interior and the President of NANA Regional Corporation, Inc., on January 31 and January 24, 1985, respectively.

(2) the term "transportation system" means the Red Dog Mine Transportation System described in Exhibit B of the Agreement.

(3) the term "NANA" means NANA Regional Corporation, Inc., a corporation formed for the Natives of Northwest Alaska pursuant to the provisions of this chapter.

(b) Conveyances of lands and interests in lands

Except as otherwise provided by this section, the Secretary shall convey to NANA, in accordance with the terms and conditions set forth in the Agreement, lands and interests in lands specified in the Agreement in exchange for lands and interests in lands of NANA, specified in the Agreement, upon fulfillment by NANA of its obligations under the Agreement: Provided, however, That this modified exchange is accepted by NANA within 60 days of September 25, 1985.

(c) Exchange limited to designated lands

(1) The Secretary shall convey to NANA, pursuant to the provisions of paragraph A(1) of the Agreement, the right, title and interest of the United States only in and to those lands designated as "Amended A(1) Lands" on the map entitled "Modified Cape Krusenstern Land Exchange", dated July 18, 1985. The charges to be made pursuant to paragraphs B(1) and D(27) of the Agreement against NANA's land entitlements under this chapter shall be reduced by an amount equivalent to the difference between that acreage conveyed pursuant to this subsection and the acreage that would have been

conveyed to NANA pursuant to paragraph A(1) of the Agreement but for this subsection.

(2) Notwithstanding the provisions of paragraph A(3) of the Agreement, the Secretary shall not convey to NANA any right, title and interest of the United States in the lands described in such paragraph A(3) and the Secretary shall make no charge to NANA's remaining entitlements under this chapter with respect to such lands. Such lands shall be retained in Federal ownership but shall be subject to the easement described in Exhibit D to the Agreement as if the lands had been conveyed to NANA pursuant to paragraph A(3) of the Agreement.

(d) Easement in and to transportation system lands

(1) There is hereby granted to NANA an easement in and to the lands designated as "Transportation System Lands" on the map entitled "Modified Cape Krusenstern Land Exchange", dated July 18, 1985, for use in the construction, operation, maintenance, expansion and reclamation of the transportation system. Use of the easement for such purposes shall be subject only to the terms and conditions governing the construction, operation, maintenance, expansion and reclamation of the transportation system, as set forth in Exhibit B to the Agreement.

(2) The easement granted pursuant to this section shall be for a term of 100 years. The easement shall terminate prior to the 100-year term:

(i) if it is relinquished to the United States; or

(ii) if construction of the transportation system has not commenced within 20 years of September 25, 1985. Computation of the 20-year period shall exclude periods when construction could not commence because of force majeure, act of God or order of a court; or

(iii) upon completion of reclamation pursuant to the reclamation plan required by Exhibit B to the Agreement.

(3) Within 90 days after September 25, 1985, the Secretary shall execute the necessary documents evidencing the grant to NANA of the easement granted by this section.

(4) Except as regards the trail easement described in Exhibit D to the Agreement (to which the "Transportation System Lands" shall be subject as if such lands had been conveyed to NANA pursuant to paragraph A(1) of the Agreement), access to the lands subject to the easement granted by this section shall be subject to such limitations, restrictions or conditions as may be imposed by NANA, its successors and assigns, but NANA and its successors and assigns shall permit representatives of the Secretary such access as the Secretary determines is necessary for the monitoring required by this section.

(e) Compliance with local laws

The easement granted by this section makes available land for the transportation system, and is intended to be sufficient to permit NANA to comply with the laws of the State of Alaska which may be necessary to secure financing of the construction of the transportation system and the operation, maintenance or expansion thereof by the State of Alaska or by the Alaska Industrial Development Authority.

(f) Reconveyance of easement by NANA

The easement granted to NANA by this section may be reconveyed by NANA, but after any such reconveyance the terms and conditions specified in Exhibit B of the Agreement shall continue to apply in full to the easement.

(g) Construction materials taken from borrow sites within easement

NANA is hereby granted the right to use, develop and sell sand, gravel and related construction materials from borrow sites located within the easement granted pursuant to this section as required for the construction, operation, maintenance, expansion and reclamation of the transportation system, subject to the terms and conditions specified in Exhibit B of the Agreement.

(h) Agreement as governing use of lands

(1) The construction, operation, maintenance, expansion and reclamation of any portion of the transportation system on any of the lands subject to the easement granted to NANA by this section shall be governed solely by the terms and conditions of the Agreement, including the procedural and substantive provisions of Exhibit B to the Agreement, as if the lands covered by the easement granted to NANA by this section had been conveyed to NANA pursuant to paragraph A(1) of the Agreement.

(2) The Secretary of the Interior, acting through the National Park Service, shall monitor the construction, operation, maintenance, expansion and reclamation of the transportation system, as provided in the Agreement. Any complaint by any person or entity that any aspect of the construction, operation, maintenance, expansion or reclamation of the portion of the transportation system on the lands subject to the easement granted to NANA by this section is not in accordance with the terms and conditions specified in the Agreement shall be made to the Secretary in writing. The Secretary shall review any such complaint and shall provide to NANA or its successors or assigns and to the complainant a decision in writing on the complaint within 90 days of receipt thereof. If the Secretary determines that the activity made the subject of a complaint is not in accordance with the terms specified in the Agreement, and NANA or its successors or assigns disagrees with that determination, the dispute shall be resolved according to the procedures established in Exhibit B to the Agreement.

(i) Use of construction materials from other sites

The Secretary shall make available to NANA and its successors and assigns the right to use sand, gravel and related construction materials located in Sections 23, 24, 25, 26, 35 and 36 of Township 26 North, Range 24 West, Kateel River Meridian, Alaska, if the Secretary determines either (1) that use of such sand, gravel or related construction material is necessary because there is no other sand, gravel or related construction material reasonably available for the construction, operation, maintenance, expansion or reclamation of the transportation system; or (2) that use of such sand, gravel or related construction material is necessary in order to construct, operate, maintain, expand, or reclaim the transportation system in an environmentally sound manner, consistent with the requirements of Exhibit B of the Agreement. The right to use such sand, gravel and related construction material shall be subject to the terms and conditions of paragraph A of Exhibit B of the Agreement and such other reasonable terms and conditions as the Secretary may prescribe.

(j) Congressional consultation as prerequisite to amendment of Agreement

Notwithstanding paragraph D(23) of the Agreement, the Secretary shall not agree to any amendment to the Agreement without first consulting with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and shall transmit copies of the text of any amendment to the Agreement to those Committees at the time of his agreeing to any such amendment.

(Pub. L. 92-203, Sec. 34, as added Pub. L. 99-96, Sec. 1, Sept. 25, 1985, 99 Stat. 460; amended Pub. L. 103-437, Sec. 16(a)(5), Nov. 2, 1994, 108 Stat. 4594.)

#### AMENDMENTS

1994 - Subsec. (j). Pub. L. 103-437 substituted "Natural Resources" for "Interior and Insular Affairs" before "of the House".

#### CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1629a of this title.

TITLE 43 - PUBLIC LANDS  
CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1629a.** Relinquishment by NANA Regional Corporation, Inc., of lands compact and contiguous to public lands in Cape Krusenstern National Monument

(a) Terms and conditions

The terms and conditions of this section are solely applicable to the lands described in paragraph A(1) of the Agreement, which is defined by section 1629(a)(1) of this title and modified by section 1629 of this title, and shall not affect the relinquishment by NANA described in section B(1) of such Agreement.

(b) Conveyance of lands to United States

NANA Regional Corporation, Inc. ("NANA"), may convey by quit-claim deed to the United States all of its interest in the surface and subsurface estate in any lands described in subsection (a) of this section: Provided, however, That NANA can relinquish only lands that are compact and contiguous to other public lands within the Krusenstern National Monument and, if the lands to be relinquished have been disturbed by NANA, the Secretary must first determine that such disturbance has not rendered the lands incompatible with Monument values. Whenever NANA executes a quit-claim deed pursuant to this section, it shall be entitled to designate and have conveyed to it any lands outside the boundaries of the Cape Krusenstern National Monument and any other conservation system unit, as established and defined by the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371, et seq.), covered by any of its pending selection applications filed under the entitlement provisions of either section 1611(b), 1611(c) or 1613(h)(8) of this title. Lands conveyed to NANA pursuant to this subsection shall be of a like estate and equal in acreage to that conveyed by NANA to the United States. The lands conveyed to NANA pursuant to this subsection shall be in exchange for the lands conveyed by NANA to the United States and there shall be no change in the charges previously made to NANA's land entitlements with respect to the lands conveyed by NANA to the United States. Lands received by NANA pursuant to this subsection are Settlement Act lands.

(c) Relinquishment of interests under filed selection applications

NANA may relinquish any interest it has under selection applications filed pursuant to this chapter in the surface and subsurface estate in lands described in subsection (a) of this

section by formally withdrawing such application pursuant to this section: Provided, however, That NANA can relinquish only interests in lands that are compact and contiguous to other public lands within the Krusenstern National Monument and, if the lands have been disturbed by NANA, the Secretary must first determine that such disturbance has not rendered the lands incompatible with Monument values. Whenever NANA formally withdraws a selection application pursuant to this section, it shall be entitled to designate and have conveyed to it lands outside the boundaries of Cape Krusenstern National Monument and any other conservation system unit, as established and defined by the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371, et seq.) pursuant to any of its pending selection applications filed under either section 1611(b), 1611(c) or 1613(h)(8) of this title. Lands conveyed to NANA under this subsection shall be of a like estate and equal in acreage to the interest which NANA relinquished, and when the lands are conveyed to NANA, the conveyance shall be charged against the same entitlement of NANA as if the lands had been conveyed pursuant to the relinquished selection applications. Lands received by NANA pursuant to this subsection are Settlement Act lands.

(d) Termination date

The provisions of this section shall remain in effect only until December 18, 1991.

(e) Effect on NANA's selection rights or entitlement to lands

Nothing in this section shall be deemed to alter or amend in any way NANA's selection rights or to increase or diminish NANA's total entitlement to lands pursuant to this chapter.

(Pub. L. 92-203, Sec. 35, as added Pub. L. 99-96, Sec. 1, Sept. 25, 1985, 99 Stat. 462.)

#### REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsecs. (b) and (c), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

43 USC Sec. 1629b

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1629b.** Procedures for considering amendments and resolutions

(a) Coverage

Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section -

(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 1606 of this title, subsection (d)(1)(B) of this section, or section 1629c of this title;

(2) a resolution authorized by section 1629d(a)(2) of this title;

(3) a resolution to establish a Settlement Trust; or

(4) a resolution to convey all or substantially all of the assets of a Native Corporation to a Settlement Trust pursuant to section 1629e(a)(1) of this title;

shall be considered in accordance with the provisions of this section.

(b) Basic procedure

(1) An amendment or resolution described in subsection (a) of this section may be approved by the board of directors of a Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) of this section and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of -

(i) land conveyed to the corporation pursuant to section 1613(h)(1) of this title or any other land used as a cemetery;

(ii) the surface estate of land that is both -

(l) exempt from real estate taxation pursuant to section

1636(d)(1)(A) of this title; and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16); or

(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

(c) Shareholder petitions

(1)(A) With respect to an amendment authorized by section 1606(g)(1)(B) of this title or section 1629c(b) of this title or an amendment authorizing the issuance of stock subject to the restrictions provided by section 1606(g)(2)(B)(iii) of this title, the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). If a petition meets the applicable solicitation requirements and -

(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after February 3, 1988, elects

application of section 1629c(d) of this title in lieu of section 1629c(b) of this title. Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 1629c(c) of this title in lieu of section 1629c(b) of this title. Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

(d) Voting standards

(1) An amendment or resolution described in subsection (a) of this section shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing -

(A) a majority of the total voting power of the corporation, or

(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

(2) A Native Corporation in amending its articles of incorporation pursuant to section 1606(g)(2) of this title to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) of this section (other than an amendment authorized by section 1629c of this title) in order for such amendment or resolution to be approved.

(e) Voting power

For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.

(Pub. L. 92-203, Sec. 36, as added Pub. L. 100-241, Sec. 7, Feb. 3, 1988, 101 Stat. 1795.)

#### REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (c)(1)(B), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (Sec. 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1606, 1629e of this

title.

43 USC Sec. 1629c

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1629c.** Duration of alienability restrictions

(a) General rule

Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after July 16, 1993: Provided, however, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.

(b) Opt-out procedure

(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on -

(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than five years after the rejection of the most recently rejected amendment to terminate restrictions; or

(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than two years after the rejection of the most recently rejected amendment to terminate restrictions.

(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on -

(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every five years; or

(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every two years.

(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 1629d of this title. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

(c) Recapitalization procedure

(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for -

- (i) an indefinite period of time;
- (ii) a specified period of time not to exceed fifty years; or
- (iii) a period of time that shall end upon the occurrence of a specified event.

(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section

1606(g) of this title) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 1606(g)(1)(A) of this title) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 1606(j) and 1606(m) of this title) upon completion of the recapitalization plan, then such holder shall have no right under section 1629d of this title and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

(d) Opt-in procedure

(1)(A) Subsection (b) of this section shall not apply to a Native Corporation whose board of directors approves, no later than one year after February 3, 1988, a resolution electing the application of this subsection and such resolution is not validly rescinded pursuant to paragraph (2)(B)(ii).

(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

(B)(i) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to

extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

(ii) In lieu of approving the amendment to the articles of incorporation described in clause (i) and submitting such amendment to a vote of the shareholders, at any time prior to January 1, 1991, the board of directors of a Native Corporation that has approved a resolution described in paragraph (1)(A) may approve a new resolution rescinding that prior resolution. Upon approval of the new resolution rescinding a resolution described in paragraph (1)(A), the latter resolution shall be void and alienability restrictions on the Settlement Common Stock of such corporation shall continue subsequent to December 18, 1991, until such time as the alienability restrictions are terminated pursuant to the procedure described in subsection (b) of this section.

(iii) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of any provision in clause (ii) shall be barred unless it is filed within one year after the date of the vote of the board of directors approving a resolution to rescind a prior opt-in election under paragraph (1)(A). Any such civil action shall be filed in accordance with section 16(b) of the Alaska Native Claims Settlement Act Amendments of 1987 (101 Stat. 1813-1814).

(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for -

- (i) an indefinite period of time, or
- (ii) a specified period of time of not less than one year and not more than fifty years.

(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who -

(i) voted against such amendment, and

(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B), shall notify the Corporation within ninety days of the date of the vote of the shareholders on the amendment of his or her desire.

(B) Within one hundred and twenty days after the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either -

(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 1629d(a)(1)(B) of this title.

(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

(6)(A) If the board of directors of a Native Corporation approves

a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed canceled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this chapter as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 1606(g)(1)(B)(iii) of this title shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that section.

(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) of this section shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 1606 of this title shall be exchanged either for -

(I) a share of alienable common stock carrying such right, or

(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following -

(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying -

(I) that such transferee is or is not a Native or a descendant of a Native;

(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 78m(d) of title 15 and the regulations of the Securities and Exchange Commission promulgated thereunder; and

(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares -

(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other

contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 78m(d) of title 15 shall be deemed for purposes of such sections to be the beneficial owner of such security.

(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.

(Pub. L. 92-203, Sec. 37, as added Pub. L. 100-241, Sec. 8, Feb. 3, 1988, 101 Stat. 1797; amended Pub. L. 101-378, title III, Sec. 301, Aug. 17, 1990, 104 Stat. 471; Pub. L. 102-201, title III, Sec. 301, Dec. 10, 1991, 105 Stat. 1633.)

#### REFERENCES IN TEXT

Section 16(b) of the Alaska Native Claims Settlement Act Amendments of 1987, referred to in subsec. (d)(2)(B)(iii), is section 16(b) of Pub. L. 100-241, which is set out as a note under section 1601 of this title.

#### AMENDMENTS

1991 - Subsec. (a). Pub. L. 102-201 substituted "July 16, 1993: Provided, however, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition" for "December 18, 1991".

1990 - Subsec. (d)(1)(A). Pub. L. 101-378, Sec. 301(1), inserted before period at end "and such resolution is not validly rescinded pursuant to paragraph (2)(B)(ii)".

Subsec. (d)(2)(B). Pub. L. 101-378, Sec. 301(2), (3), designated existing provisions as cl. (i) and added cls. (ii) and (iii).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1606, 1620, 1629b, 1629d of this title; title 15 section 78m.

43 USC Sec. 1629d

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1629d.** Dissenters rights

(a) Coverage

(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation -

(A) fail to approve an amendment authorized by section 1629c(b) of this title to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

(B) approve an amendment authorized by section 1629c(d) of this title to continue alienability restrictions without issuing alienable common stock pursuant to section 1629c(d)(6) of this title, a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

(b) Relationship to State procedure

(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2) of this section.

(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

(c) Valuation of stock

(1) Prior to a vote described in subsection (a)(1) of this section, the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2) of this section -

(A) the Settlement Common Stock shall be valued as restricted stock; and

(B) the value of -

(i) any land conveyed to the corporation pursuant to section 1613(h)(1) of this title or any other land used as a cemetery; and

(ii) the surface estate of any land that is both -

(I) exempt from real estate taxation pursuant to section

1636(d)(1)(A) of this title, and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16); or

(iii) any land or interest in land which the board of directors believes to be only of speculative value; shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

(d) Form of payment

(1) Prior to a vote described in subsection (a)(1) of this section, the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) of this section payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by -

(A) a payment bond issued by an insurance company or financial institution;

(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to -

(i) land conveyed to the corporation pursuant to section 1613(h)(1) of this title, or any other land used as a cemetery;

(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 1606(i) of this title; or

(iii) the surface estate of land that is both -

(I) exempt from real estate taxation pursuant to section 1636(d)(1)(A) of this title; and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16), unless the Board of Directors (FOOTNOTE 1) of the corporation acts so as to make such lien applicable to such surface estate.

(FOOTNOTE 1) So in original. Probably should be "board of directors".

(2) A note issued pursuant to paragraph (1) shall provide that -

(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) of this

section occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1) of this section.

(e) Dividend adjustment

(1) The cash payment made pursuant to subsection (a) of this section or the principal amount of a note issued pursuant to subsection (d) of this section to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1) of this section.

(2) Upon receipt of a cash payment pursuant to subsection (a) of this section or a note pursuant to subsection (d) of this section, a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.

(Pub. L. 92-203, Sec. 38, as added Pub. L. 100-241, Sec. 9, Feb. 3, 1988, 101 Stat. 1802.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1629b, 1629c of this title.

43 USC Sec. 1629e

01/26/98

TITLE 43 - PUBLIC LANDS

CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

**Sec. 1629e.** Settlement Trust option

(a) Conveyance of corporate assets

(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 1629b of this title).

(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

(2) No subsurface estate in land shall be conveyed to a

Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

(3) Conveyances made pursuant to this subsection -

(A) shall be subject to applicable laws respecting fraudulent conveyance and creditors rights; and

(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.

(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

(b) Authority and limitations of a Settlement Trust

(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not -

(A) operate as a business;

(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation); or

(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to -

(A) appoint the trustees of the trust, and

(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a Settlement Trust. An appointment or removal of a trustee in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(3) A Native Corporation that has established a Settlement Trust may expand the class of beneficiaries to include holders of Settlement Common Stock issued after the establishment of the trust without compensation to the original beneficiaries.

(4) A Settlement Trust shall not be held to violate any laws against perpetuities.

(c) Savings

(1) The provisions of this chapter shall continue to apply to any land or interest in land received from the Federal Government pursuant to this chapter and later conveyed to a Settlement Trust as if the land or interest in land were still held by the Native

Corporation that conveyed the land or interest in land.

(2) No timber resources subject to section 1606(i) of this title conveyed to a Settlement Trust shall be sold, exchanged, or otherwise conveyed except as necessary to -

- (A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;
- (B) prevent or suppress fire; or
- (C) ensure public safety.

The revenue, if any, from such timber harvests shall be subject to section 1606(i) of this title as if such conveyance had not occurred.

(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) of this section shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 1606(i) of this title) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 1606(i) of this title as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a) of this section, a conveyance to a Settlement Trust that does not -

- (A) render it -
  - (i) unable to satisfy claims based upon paragraph (1), (2), or (3); or
  - (ii) insolvent; or
- (B) occur when the Native Corporation is insolvent;

the assets so conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(7) Except where otherwise expressly provided, no provision of

this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.

(Pub. L. 92-203, Sec. 39, as added Pub. L. 100-241, Sec. 10, Feb. 3, 1988, 101 Stat. 1804.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1629b, 1636 of this title.

43 USC Sec. 1629f

01/26/98

#### TITLE 43 - PUBLIC LANDS

#### CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT

#### **Sec. 1629f.** Claims arising from contamination of transferred lands

(a) As used in this section the term "contaminant" means (FOOTNOTE 1) hazardous substance harmful to public health or the environment, including friable asbestos.

(FOOTNOTE 1) So in original. Probably should be "means a".

(b) Within 18 months of November 2, 1995, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this chapter. Such report shall consist of -

(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native Corporations;

(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants;

(3) identification of existing remedies;

(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on the lands; and

(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of

asbestos.

(Pub. L. 92-203, Sec. 40, as added Pub. L. 104-42, title I, Sec. 103, Nov. 2, 1995, 109 Stat. 354.)